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REPORT
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ARCTIC COASTAL PLAIN COMPETITIVE OIL AND GAS LEASING ACT

MARCH 24 (legislative day, MARCH 21), 1988.—Ordered to be printed

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Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

together with

ADDITIONAL AND MINORITY VIEWS

[To accompany S. 2214]

The Committee on Energy and Natural Resources, having considered the same, reports favorably an original bill, to authorize competitive oil and gas leasing and development on the Coastal Plain of the Arctic National Wildlife Refuge in a manner consistent with protection of the environment, and for other purposes, and recommends that the bill do pass.

TEXT OF THE BILL

That this Act may be cited as the "Arctic Coastal Plain Competitive Oil and Gas Leasing Act".

TITLE I—STATEMENT OF PURPOSE AND DEFINITIONS

SEC. 101. PURPOSE AND POLICY.—The Congress hereby declares that it is the purpose and policy of this Act—

(a) to authorize competitive oil and gas leasing and development to proceed on the Coastal Plain in a manner consistent with protection of the environment, maintenance of fish and wildlife and their habitat, and the interests of the area's subsistence users; and

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(b) to provide a new source of funding for acquisition of critical wildlife habitat, for the Land and Water Conservation Fund, and for other purposes.

SEC. 102. DEFINITIONS.—When used in this Act—

(a) the term "Coastal Plain" means that area identified as such in the map entitled "Arctic National Wildlife Refuge", dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142(b)(1)) comprising approximately one million five hundred and forty-nine thousand acres; and

(b) the term "Secretary" means the Secretary of the Interior or the Secretary's designee.

TITLE II—MANAGEMENT OF COASTAL PLAIN

SEC. 201. CONGRESSIONAL POLICY ON COASTAL PLAIN.—Enactment of this Act by the Congress establishes the policy that oil and gas activities authorized and conducted on the Coastal Plain pursuant to this Act so as to result in no significant adverse effect on fish and wildlife, their habitat, and the environment, shall be deemed to be compatible with the major purposes for which the Arctic National Wildlife Refuge was established and no further findings or determinations of compatibility by the Secretary under the National Wildlife Refuge System Administration Act are required to implement this Congressional policy.

TITLE III—COASTAL PLAIN COMPETITIVE LEASING PROGRAM

SEC. 301. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.—(a) The Congress hereby authorizes and directs the Secretary of the Interior and other appropriate Federal officers and agencies to take such actions as are necessary to establish and implement a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain. Activities pursuant to such program shall be undertaken:

(1) in accordance with the standards for protection of the environment as required by title IV of this Act; and

(2) in a manner to ensure the receipt of fair market value by the public for the mineral resources to be leased.

(b) This Act shall be the sole authority for leasing on the Coastal Plain.

SEC. 302. RULES AND REGULATIONS.—(a) The Secretary shall prescribe such rules and regulations as may be necessary to carry out the purposes and provisions of this Act, including rules and regulations relating to protection of the environment of the Coastal Plain, as required by Title IV of this Act. Such rules and regulations shall be promulgated within nine months after the date of enactment of this Act and shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this Act.

(b) In the formulation and promulgation of rules and regulations under this Act, the Secretary shall request and give due consideration to the views of appropriate officials of the State of Alaska

and the Government of Canada. The Secretary shall also consult with the Environmental Protection Agency and the Army Corps of Engineers in developing rules and regulations relating to the environment.

(c) The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) of this section to reflect any significant biological, environmental, or engineering data which come to the Secretary's attention.

SEC. 303. ADEQUACY OF DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—(a) The "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142), and section 102(2)(C), of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), is hereby found by the Congress to be adequate to satisfy the legal requirements under the National Environmental Policy Act of 1969 with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this Act prior to conducting the first lease sale.

(b) Except as provided in subsection (a) of this section, nothing in this Act shall be considered or construed as otherwise limiting or affecting in any way the applicability of section 102(2)(C) of the National Environmental Policy Act of 1969 to all phases of oil and gas leasing, exploration, development, and production and related activities conducted under or associated with the leasing program authorized by this Act, nor shall anything in this Act be considered or construed as in any way limiting or affecting the applicability of any other Federal or State law relating to the protection of the environment.

SEC. 304. LEASE SALES.—(a) Lands may be leased pursuant to the provisions of this Act to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act, as amended (30 U.S.C. 181).

(b) The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion from, a lease sale;

(2) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale;

(3) review by the State of Alaska and local governments in Alaska which may be impacted by the proposed leasing; and

(4) periodic consultation with the State of Alaska and local governments in Alaska, oil and gas lesees, and representatives of other individuals or organizations engaged in activity in or on the Coastal Plain including those involved in subsistence uses and recreational activities.

(c) The Secretary shall, by regulation, provide for lease sales of lands on the Coastal Plain. When lease sales are to be held, they shall occur after the nomination process provided for in subsection (b) of this section. For the first lease sale, the Secretary shall, consistent with the requirements set forth in title IV of this Act, offer for lease those acres receiving the greatest number of nominations, but not to exceed a total of three hundred thousand acres. If the

total acreage nominated is less than three hundred thousand acres, he shall include in such sale any other acreage which he believes has the highest resource potential, but in no event shall more than three hundred thousand acres of the Coastal Plain be leased in such sale. Thereafter, no more than three hundred thousand acres of the Coastal Plain may be leased in any one lease sale. The initial lease sale shall be held within eighteen months of the issuance of final regulations by the Secretary. The second lease sale shall be held thirty-six months after the initial sale, with additional sales conducted every twenty-four months thereafter so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

(d) Areas of the Coastal Plain deemed by the Secretary to be of particular environmental sensitivity may be excluded from leasing by the Secretary. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives ninety days in advance of excluding any such areas from leasing. If the Secretary later determines that exploration, development, or production will result in no significant adverse effect on fish and wildlife, their habitat, and the environment, the Secretary shall, consistent with the provisions of subsection (c) of this section, offer such lands for leasing.

SEC. 305. GRANT OF LEASES BY THE SECRETARY.—(a) The Secretary is authorized to grant to the highest responsible qualified bidder by sealed competitive bid any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary and of such royalty as may be fixed in the lease, which shall be not less than twelve and one-half per centum in amount or value of the production removed or sold from the lease.

(b) The Secretary shall not accept a bid for a lease if the Secretary finds, after notice and hearing, that the bidder is not meeting diligent development requirements on any other Federal mineral lease.

SEC. 306. LEASE TERMS AND CONDITIONS.—An oil and gas lease issued pursuant to this section shall—

(a) be for a tract consisting of a compact area not to exceed two thousand five hundred sixty acres;

(b) be for an initial period of ten years and as long thereafter as oil or gas is produced in paying quantities or drilling or well reworking operations as approved by the Secretary are operated thereon;

(c) require the payment of royalty as provided for in section 305 of this Act;

(d) require approval of an exploration plan, as provided for in section 307 of this Act;

(e) require approval of a development and production plan, as required in section 307 of this Act;

(f) require posting of bond required by section 308 of this Act;

(g) provide for the suspension of the lease during the initial lease term or thereafter pursuant to section 309 of this Act;

(h) provide for the cancellation of the lease during the initial lease term or thereafter pursuant to section 310 of this Act;

(i) contain the terms and conditions relating to protection of fish and wildlife, their habitat, and the environment, as required by title IV of this Act; and

(j) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease.

SEC. 307. EXPLORATION AND DEVELOPMENT AND PRODUCTION PLANS.—(a) EXPLORATION PLANS.—All exploration activities pursuant to any lease issued or maintained under this Act shall be conducted in accordance with an approved exploration plan or an approved revision of such plan. Prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any region of the Coastal Plain, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan in consistent with the provisions of this Act and other applicable law.

(b) OIL AND GAS DEVELOPMENT AND PRODUCTION PLANS.—All development and production pursuant to a lease issued or maintained pursuant to this Act shall be conducted in accordance with an approved development and production plan. Prior to commencing development or production pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit a development and production plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any region of the Coastal Plain, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act and other applicable law.

(c) REQUIREMENTS APPLICABLE TO EXPLORATION PLANS AND DEVELOPMENT AND PRODUCTION PLANS.—Exploration plans and development and production plans shall include where applicable—

(1) the names and legal addresses of the following persons: the operator, contractors, subcontractors, and the owners or lessees other than the operator;

(2) a map or maps showing: (A) the location of a point of reference selected by the operator within the area covered by the plan of operations showing, in relation to that point, existing and proposed access routes or roads within the area, the boundaries of proposed surface disturbance and location of all survey lines; (B) the location of proposed drilling sites, wellsite layout, and all surface facilities; (C) sources of construction materials within the area including but not limited to gravel; and (D) the location of ancillary facilities including but not limited to camps, sanitary facilities, water supply, disposal facilities, pipelines, fuel storage facilities, storage facilities, base of operations, and airstrips. A point of reference selected by the operator within the area of operations shall be marked with a ground monument;

(3) a description of (A) all surface and ancillary facilities, including but not limited to camps, sanitary facilities, water supply, disposal facilities, pipelines, fuel storage facilities, storage facilities, base of operations, and airstrips; and (B) the

major equipment to be used in the operations, including but not limited to equipment and methods for the transport of all waters used in or produced by operations, and of the proposed method of transporting such equipment within the area covered by the plan of operations including to and from the site;

(4) an estimated schedule for any phase of operations of which review by the Secretary is sought and the anticipated date of operation completion;

(5) the nature and extent of proposed operations;

(6) plans for reclamation, including—

(A) the anticipated reclamation work to be performed;

(B) a proposed schedule of reclamation activities to be performed; and

(C) a detailed estimate of reclamation costs;

(7) methods for disposal of all wastes and hazardous and toxic substances;

(8) an affidavit stating that the operations planned will be in compliance with all applicable Federal, State, and local laws and regulations;

(9) contingency plans in case of spills, leaks, or other accidents; and

(10) such additional information as may be required by the Secretary to ensure that the proposed activities are consistent with this Act, as well as other applicable Federal and State environmental laws.

(d) PROCEDURES FOR PLAN APPROVAL.—(1) After an exploration or development and production plan is submitted for approval, the Secretary shall promptly publish notice of the submission and availability of the text of the proposed plan in the Federal Register and a newspaper of general circulation in the State of Alaska and provide an opportunity for written public comment.

(2) Within one hundred twenty days after receiving an exploration or development and production plan, the Secretary shall determine, after taking into account any comment received under paragraph (1) of this subsection, whether the activities proposed in the plan are consistent with this Act and other applicable provisions of Federal and State law. If that determination is in the affirmative, the Secretary shall return the plan along with a statement of any modifications necessary for its approval. The Secretary, as a condition of approving any plan under this section—

(A) may require modifications to the plan that he considers necessary or appropriate to make it consistent with this Act and other applicable law. The Secretary shall assess reasonable fees or charges for the reimbursement of all necessary and reasonable research, administrative, monitoring, enforcement, and reporting costs associated with reviewing the plan and monitoring its implementation; and

(B) shall require such periodic reports regarding the carrying out of the drilling and related activities as may be necessary or appropriate for purposes of determining the extent to which the plan is being complied with and the effectiveness of the plan in ensuring that the drilling and related activities are consistent with this Act and other applicable provisions of Federal and State law.

(e) MODIFICATION OF PLANS.—If at any time while activities are being carried out under a plan approved under this section, the Secretary, on the basis of available information, determines that the continuation of any particular activity under the plan is likely to result in a significant adverse effect on fish or wildlife, their habitat, or the environment, the Secretary, after consultation with the lessee shall—

(1) make modifications to part or all of the plan as necessary or appropriate to avoid the significant adverse effect;

(2) temporarily suspend part or all of the drilling or related activity under the plan for such time as the Secretary considers necessary or appropriate to avoid such significant adverse effect; or

(3) terminate and cancel the plan where actions under paragraphs (1) or (2) will not avoid the significant adverse effect.

SEC. 308. BONDING REQUIREMENTS.—(a) REQUIREMENT FOR PERFORMANCE BOND.—After approval of an exploration or development and production plan, the lessee shall be required to file with the Secretary a suitable performance bond. The bond shall be conditioned upon compliance with all the terms and conditions of the lease and all applicable laws. Such performance bond is in addition to and not in lieu of any bond or security deposit required by other regulatory authorities. The lessee may file either a surety bond, or a personal bond consisting of cash or negotiable Treasury bonds of the United States. When negotiable Treasury bonds serve as the personal bond, they shall be accompanied by a proper conveyance to the Secretary of full authority to sell such securities in case of a default in the performance of the terms and conditions of the lease.

(b) AMOUNT OF PERFORMANCE BOND.—The performance bond shall be in an amount:

(1) to be determined by the Secretary to provide for reclamation of the lease site in accordance with an approved or revised exploration or development and production plan; plus

(2) an amount set by the Secretary consistent with the type of operations proposed, to provide the means for rapid and effective cleanup, and to minimize damages resulting from an oil spill, the escape of gas, refuse, domestic wastewater, hazardous or toxic substances, or fire caused by oil and gas activities. This amount shall not exceed $500,000 for geophysical surveys, and shall not exceed a blanket bond of $1,000,000 for all exploration activities and an additional $1,500,000 for all development and production activities on the Coastal Plain.

(c) ADJUSTMENT OF BOND TO CONFORM TO REVISED PLAN.—In the event that an approved exploration or development and production plan is revised, the Secretary may adjust the amount of the bond to conform to such modified plan.

(d) DURATION OF BOND.—The responsibility and liability of the lessee and its surety under the bond or security deposit shall continue until such time as the Secretary determines that there has been compliance with the terms and conditions of the lease and all applicable law.

(e) TERMINATION OF LIABILITY.—Within sixty days after determining that there has been compliance with the terms and conditions of the lease and all applicable laws, the Secretary shall notify the

lessee that the period of liability under the bond or security deposit has been terminated.

SEC. 309. LEASE SUSPENSION.—The Secretary may direct or assent to the suspension of operations and production under any lease granted under the terms of this Act: (1) in the interest of conservation of the resource; (2) where there is no available system to transport the resource; or (3) where there is a threat of significant adverse effect upon fish or wildlife, their habitat or the environment. If such a suspension is directed or assented to by the Secretary, any payment of rental prescribed by such lease shall be suspended during such period of suspension of operations and protection, and the term of the lease shall be extended by adding any such suspension period thereto.

SEC. 310. LEASE CANCELLATION.—(a) CANCELLATION OF NONPRODUCING LEASE.—Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this act, such lease may be cancelled by the Secretary if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at the lease owner's record post office address.

(b) CANCELLATION OF PRODUCING LEASE.—Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, of the lease, or of the regulations issued under this Act, such lease may be forfeited and cancelled by any appropriate proceeding brought by the Secretary in any United States district court having jurisdiction under the provisions of this Act.

(c) ADDITIONAL PROVISIONS.—In adition to the authority for lease cancellation provided for by subsections (a) and (b) of this section, any lease may be cancelled at any time, if the Secretary determines, after a hearing, that—

(A) continued activity pursuant to such lease is likely to result in a significant adverse effect to fish or wildlife, their habitat, or the environment, or is likely to result in serious harm or damage to human life, to property, or to the national security or defense; and

(B) the likelihood of a significant adverse effect will not disappear within a reasonable period of time or the threat of harm or damage will not disappear or decrease to any acceptable extent within a reasonable period of time.

(2) Such cancellation shall not occur unless and until operations under such lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease term continuously for a period of five years, or for a lesser period upon request of the lessee.

(3) Cancellation under this subsection shall entitle the lessee to receive such compensation as the lessee demonstrates to the Secretary to be equal to the excess, if any, over the lessee's revenues from the lease (plus interest thereon from the date of receipt to the date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consider-

ation and such expenditures from date of payment to date of reimbursement).

SEC. 311. ASSIGNMENT OR SUBLETTING OF LEASES.—No lease issued under the authority of this Act shall be assigned or sublet, except with the consent of the Secretary.

SEC. 312. RELINQUISHMENT.—The lessee may, at the discretion of the Secretary, be permitted at any time to make written relinquishment of all rights under any lease issued pursuant to this Act. The Secretary shall accept the relinquishment by the lessee of any lease issued under this Act where there has not been surface disturbance on the lands covered by the lease.

SEC. 313. UNITIZATION.—For the purpose of conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof and in order to avoid the unnecessary duplication of facilities, to protect the environment of the Coastal Plain, and to protect correlative rights, the Secretary shall require to the greatest extent practicable, that lessees unite with each other in collectively adopting and operating under a cooperative or unit plan of develoment for operation of such pool, field, or like area, or any part thereof.

SEC. 314. OIL AND GAS INFORMATION.—(a)(1) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data and information (including processed, analyzed, and interpreted information) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribe.

(2) If interpreted information provided pursuant to paragraph (1) of this subsection is provided in good faith by the lessee or permittee, such lessee or permittee shall not be responsible for any consequence of the use or of reliance upon such interpreted information.

(3) Whenever any data or information is provided to the Secretary, pursuant to paragraph (1) of this subsection—

(A) by a lessee or permittee, in the form and manner of processing which is utilized by such lessee or permittee in the normal conduct of business, the Secretary shall pay the reasonable cost of reproducing such data and information;

(B) by a lessee or permittee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay the reasonable cost of processing and reproducing such data and information.

(b) The Secretary shall prescribe regulations to: (1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this action will be maintained; and (2) set forth the time periods and conditions which shall be applicable to the release of such information.

SEC. 315. REMEDIES AND PENALTIES.—(a) GENERAL.—Except as provided in section 316 of this Act, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with, any lease issued under this Act. Proceedings may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district in which the Coastal Plain is located.

(b) ACTIONS FOR RELIEF.—At the request of the Secretary, the Attorney General or a United States Attorney shall institute a civil action in the district court of the United States for the district in which any defendant resides or may be found, or in the judicial district in which the Coastal Plain is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act, any regulation or order issued under this Act, or any term of a lease issued pursuant to this Act.

(c) CIVIL PENALTIES.—If any person fails to comply with any provision of this Act, or any term of a lease issued pursuant to this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary may assess, collect and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

(d) CRIMINAL PENALTIES.—Any person who knowingly and willfully (1) violates any provision of this Act, any term of a lease issued pursuant to this Act, or any regulation or order issued under the authority of this Act designed to protect health, safety, or the environment or conserve natural resources; (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act; (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act; or (4) reveals any data or information required to be kept confidential by this Act, shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more then ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

(e) LIABILITY OF CORPORATE OFFICERS AND AGENTS FOR VIOLATIONS BY CORPORATION.—Whenever a corporation or other entity is subject to prosecution under subsection (d) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (d) of this section.

(f) CONCURRENT AND CUMULATIVE NATURE OF PENALTIES.—The remedies and penalties prescribed in this Act shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this Act shall be in addition to any other remedies and penalties afforded by any other law or regulation.

(g) REMOVAL COSTS AND LIABILITY FOR DAMAGES.—Notwithstanding any other provision of law, if any area of the Coastal Plain has been or is being polluted by discharges of oil or hazardous or toxic substances from exploration, development, or production of oil or gas or related activities, conducted by, or on behalf of, a responsible party, and if the pollution has damaged or is damaging fish or wildlife, their habitat, or the environment of the Coastal Plain, or

if such pollution is causing a substantial threat of damaging those fish or wildlife, their habitat, or the environment of the Coastal Plain, the responsible party shall be jointly, severally and strictly liable for the removal costs and damages specified in this subsection that arise directly out of or directly result from pollution that has damaged, or is damaging or is causing a substantial threat of damaging fish or wildlife, their habitat, or the environment of the Coastal Plain. The Secretary shall make a determination with respect to such liability after notice to the responsible party and an opportunity for hearing. Upon failure of the responsible party adequately to control and remove the pollutant or threat, the Secretary, in cooperation with other Federal, State, or local agencies, or in cooperation with the responsible party, or both, shall have the right to accomplish the control and removal at the expense of the responsible party. Funds contained in the Coastal Plain Liability and Reclamation Fund, provided for by section 502 of this Act, may be used to accomplish such control and removal until such time as sufficient funds can be recovered from the responsible party. The removal costs and damages referred to in this subsection are the following—

(1) all necessary removal costs as determined by the Secretary;

(2) damages for injury to, destruction of, loss of, and reclamation of natural resources, including the reasonable costs of assessing such injury, destruction, loss or reclamation; and

(3) damages for economic loss resulting from injury to, or destruction of, real or personal property or natural resources, and loss of subsistence use of natural resources by local residents.

SEC. 316. EXPEDITED JUDICIAL REVIEW.—Any complaint filed seeking judicial review of an action of the Secretary in promulgating any regulation under this Act may be filed only in the United States Court of Appeals for the District of Columbia, and such complaint shall be filed within ninety days from the date of such promulgation, or after such date if such complaint is based solely on grounds arising after such ninetieth day, in which case the complaint must be filed within ninety days after the complainant knew or reasonably should have known of the grounds for the complaint. Any complaint seeking judicial review of any other actions of the Secretary under this Act may be filed in any appropriate district court of the United States, and such complaint must be filed within ninety days from the date of the action being challenged, or after such date if such complaint is based solely on grounds arising after such ninetieth day, in which case the complaint must be filed within ninety days after the complainant knew or reasonably should have known of the grounds for the complaint.

SEC. 317. ANNUAL REPORT TO CONGRESS.—On March 1 of each year following the date of enactement of this Act, the Secretary of the Interior shall prepare and submit to the Congress an annual report on the leasing program authorized by this Act.

SEC. 318. PROPERTY INTERESTS OF THE INUPIAT ESKIMO PEOPLE.—The prohibitions and limitations contained in section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143), insofar as they have application to the subsurface property

interests owned by the Inupiat Eskimo people within and adjacent to the Coastal Plain, are repealed. No surface disturbance in support of oil or gas development or production involving such subsurface property interests shall be authorized prior to publication of final regulations issued pursuant to this Act which establish environmental stipulations, terms and conditions for oil and gas leasing on the Coastal Plain. The substantive provisions of such environmental stipulations, terms and conditions shall apply to the development of all subsurface property interests owned by the Inupiat Eskimo people within and adjacent to the Coastal Plain.

TITLE IV—COASTAL PLAIN ENVIRONMENTAL PROTECTION

SEC. 401. (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—The Secretary shall administer the provisions of this Act through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment, and that shall require the application of the best commercially available technology for oil and gas exploration, development, and production, on all new exploration, development, and production operations, and whenever practicable, on existing operations.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, and the environment; and

(2) a mitigation plan be implemented to avoid, minimize or compensate for any adverse effect assessed under paragraph (1) of this subsection.

SEC. 402. REGULATIONS TO PROTECT THE COASTAL PLAIN'S FISH AND WILDIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—(a) Prior to implementing the leasing program authorized by Title III of this Act, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken in the Coastal Plain authorized by this Act are conducted in a manner consistent with the purposes and environmental requirements of this Act.

(b) The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program authorized by Title III of this Act shall require compliance with all applicable provisions of Federal and State environmental law and shall also require:

(1) as a minimum, the safety and environmental mitigation measures set forth in terms one through twenty-nine (1 through 29) at pages 167 through 169 of the "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain;

(2) seasonal limitations on exploration, development and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning and migration;

(3) that exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 and that exploration activities will be supported by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods: *Provided*, That such exploration activities may be permitted at other times if the Secretary determines, after affording an opportunity for public comment and review, that special circumstances exist necessitating that exploration activities be conducted at other times of the year and he finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain;

(4) design safety and construction standards for all pipelines and any access and service roads that—

(A) minimize adverse effects upon the passage of migratory species such as caribou to the maximum extent possible; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices;

(5) prohibitions on public access and use on all pipeline access and service roads;

(6) stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this Act, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures and equipment upon completion of oil and gas production operations: *Provided*, That the Secretary may exempt from the requirements of this paragraph those facilities, structures or equipment which the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and which are donated to the United States for that purpose;

(7) appropriate prohibitions or restrictions on access by all modes of transportation;

(8) appropriate prohibitions or restrictions on sand and gravel extraction;

(9) consolidation of facility siting;

(10) appropriate prohibitions or restrictions on use of explosives;

(11) avoidance, to the extent practicable, of springs, streams and river system; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling;

(12) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(13) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, in accordance with applicable Federal and State environmental law;

(14) fuel storage and oil spill contingency planning;
(15) research, monitoring and reporting requirements;
(16) field crew environmental briefings;
(17) avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users;
(18) compliance with applicable air and water quality standards;
(19) appropriate seasonal and safety zone designations around well sites within which subsistence hunting and trapping would be limited;
(20) reasonable stipulations for protection of cultural and archeological resources; and
(21) all other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(c) In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider:

(1) the environmental protection standards which governed the initial Coastal Plain seismic exploration program (50 *Code of Federal Regulations* 37.31-33);
(2) the land use stipulations for exploratory drilling on the KIC-ASRC private lands which are set forth in Appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States; and
(3) the operational stipulations for Koniag ANWR Interest lands contained in the draft Agreement between Koniag, Inc. and the United States of America on file with the Secretary of the Interior on December 1, 1987.

SEC. 403. SADLEROCHIT SPRING SPECIAL AREA.—(a)(1) The Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map referenced in section 102 of this Act, is hereby designated to be a Special Area. Such Special Area shall be managed so as to protect and preserve the area's unique and diverse character including its fish, wildlife, and subsistence resource values.

(2) Pursuant to subsection (d) of section 304 of this Act, the Secretary may exclude the Sadlerochit Spring Special Area from leasing.

(3) In the event that the Secretary leases the Sadlerochit Spring Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(b) The Secretary is authorized to designate other areas of the Coastal Plain as special areas if the Secretary determines that they are of unique character and interest so as to require such special protection. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives of the Secretary's intent to designate such areas ninety days in advance of making such designations. Any such areas designated as Special Areas shall be managed in accordance with the standards set forth in subsection (a) of this section.

SEC. 404. FACILITY CONSOLIDATION PLANNING.—(a) The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting

and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources. This plan shall have the following objectives:

(1) avoiding unnecessary duplication of facilities and activities;

(2) encouraging consolidation of common facilities and activities;

(3) locating or confining facilities and activities to areas which will minimize impact on fish and wildlife, their habitat, and the environment;

(4) utilizing existing facilities wherever practicable; and

(5) enhancing compatibility between wildlife values and development activities.

(b) The plan prepared under section shall supplement any comprehensive conservation plan prepared pursuant to the requirements of section 304(g) of the Alaska National Interest Lands Conservation Act of 1980 (94 Stat. 2394).

SEC. 405. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.—Notwithstanding Title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.), the Secretary is authorized to grant under section 28 of the Mineral Leasing Act (30 U.S.C. 185) rights-of-way and easements across the Coastal Plain for the transportation of oil and gas under such terms and conditions as may be necessary so as not to result in a significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain. Such terms and conditions shall include requirements that facilities be sited or modified so as to avoid unnecessary duplication of roads and pipelines. The comprehensive oil and gas leasing and development regulations issued pursuant to this Act shall include provisions regarding the granting of rights-of-way across the Coastal Plain.

SEC. 406. ENVIRONMENTAL STUDIES.—In addition to any other environmental studies required by law, subsequent to exploring or developing of any area or region of the Coastal Plain, the Secretary shall conduct such additional studies to establish environmental information as he deems necessary, and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide information which can be used for comparison with any previously collected data for the purpose of identifying any effects on fish or wildlife and their habitat and any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such effects or changes.

SEC. 407. ENFORCEMENT OF SAFETY AND ENVIRONMENTAL REGULATIONS.—(a) RESPONSIBILITY OF THE SECRETARY.—The Secretary shall diligently enforce all regulations, lease terms, conditions, restrictions, prohibitions, and stipulations promulgated pursuant to this Act.

(b) RESPONSIBILITIES OF HOLDERS OF LEASE.—It shall be the responsibility of any holder of a lease under this Act to—

(1) maintain all operations within such lease area in compliance with regulations intended to protect persons and property

on, and fish and wildlife, their habitat, and the environment of, the Coastal Plain; and

(2) allow prompt access at the site of any operations subject to regulation under this Act to any appropriate Federal or state inspector, and to provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

(c) ONSITE INSPECTION OF FACILITIES.—The Secretary shall promulgate regulations to provide for—

(1) scheduled onsite inspection by the Secretary, at least twice a year, of each facility on the Coastal Plain which is subject to any environmental or safety regulation promulgated pursuant to this Act or such provisions contained in any lease issued pursuant to this Act to assure compliance with such environmental or safety regulations; and

(2) periodic onsite inspection by the Secretary at least once a year without advance notice to the operator of such facility to assure compliance with all environmental or safety regulations.

TITLE V—LAND RECLAMATION AND RECLAMATION LIABILITY FUND

SEC. 501. LAND RECLAMATION.—The holder of a lease or leases on lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands adversely affected in connection with exploration, development, or transportation activities on a lease within the Coastal Plain. The holder of a lease shall also be responsible for conducting any land reclamation required as a result of activities conducted on the lease by any of the lease holder's subcontractors or agents. The holder of a lease may not delegate or convey, by contract or otherwise, this responsibility and liability to another party without the express written approval of the Secretary.

SEC. 502. STANDARD TO GOVERN LAND RECLAMATION.—The standard to govern the reclamation of lands required to be reclaimed under this Act, following their temporary disturbance or upon the conclusion of their use or prolonged commercial production of oil and gas and related activities, shall be reclaimed and restored to a condition as closely approximating the original condition of such lands as is feasible using the best commercially available technology. Reclamation of lands shall be conducted in a manner that will not itself impair or cause significant adverse effects on fish or wildlife, their habitat, or the environment.

SEC. 503. COASTAL PLAIN LIABILITY AND RECLAMATION FUND.—(a) Within six months of a commercial discovery within the Coastal Plain, the Coastal Plain Liability and Reclamation Fund (the "Reclamation Fund") is hereby directed to be established as a nonprofit corporate entity under the laws of Alaska that may sue and be sued in its own name. The Reclamation Fund shall be established and administered by the holder of the trans-Alaska pipeline right-of-way under regulations prescribed by the Secretary. The Reclamation Fund shall be subject to an annual audit by the Comptrol-

ler General, and a copy of the audit shall be submitted to the Congress.

(b) The operator of the trans-Alaska pipeline shall collect from the owner of any commercially produced oil or natural gas liquids from the Coastal Plain at the time and point where such crude oil first enters the trans-Alaska pipeline a fee of 5 cents per barrel. The collection of the fee shall cease when $50,000,000 has been accumulated in the Reclamation Fund, and it shall be resumed at any time that the accumulation of revenue in the Reclamation Fund falls below $45,000,000.

(c) All revenues collected under subsection (b) shall be paid into the Reclamation Fund. The reasonable costs of administration of the Reclamation Fund shall be paid from the revenues in the Reclamation Fund. All sums not needed for administration of the Reclamation Fund or making authorized payments out of the Fund shall be invested prudently in income-producing securities approved by the Secretary. Income from such securities shall be added to the principal of the Reclamation Fund.

(d) The revenues in the Reclamation Fund shall be available, with the approval of the Secretary, for the following purposes:

(1) to compensate promptly any person or entity, public or private, for any damages caused by oil and gas exploration, development and production activities on or in the vicinity of the Coastal Plain;

(2) to reclaim any area of the Coastal Plain not reclaimed in accordance with the standard set forth in section 502 of this Act, by the operator or the holder of a lease or leases;

(3) up to $5,000,000 annually to reclaim and restore any area of the Arctic National Wildlife Refuge or other North Slope Federal lands previously disturbed by development activities and not properly reclaimed and restored by the party conducting the development;

(4) up to $2,000,000 annually to the Director of the Fish and Wildlife Service to monitor and conduct research on fish and wildlife species which utilize the land and water resources of the Coastal Plain; and

(5) to reclaim at the conclusion of the period of exploration, development and production, any area of the Coastal Plain and related lands which have not been properly reclaimed by the operator or lease holder.

(e) The United States shall have legal recourse against any party or entity who is responsible for the reclamation of any area within the Coastal Plain, to recover any funds expended under paragraphs (1), (2), (3) and (5) of this subsection due to a failure by the responsible party to reclaim such area as required by this Act: *Provided,* That such right of recovery shall not be available against any Alaska Natives conducting traditional subsistence use activities. Any funds so recovered shall be deposited in the Reclamation Fund.

(f) Any moneys remaining in the Reclamation Fund fifty years after the period of active oil and gas exploration, development, production and reclamation has been concluded in the Coastal Plain shall be paid into the Migratory Bird Conservation Fund.

TITLE VI—DISPOSITION OF OIL AND GAS REVENUES

SEC. 601. DISTRIBUTION OF REVENUES.—Notwithstanding any other provision of law, all revenues received from competitive bids, sales, bonuses, royalties, rents, fees, interest charges, or other income derived from the leasing of oil and gas resources within the Arctic National Refuge, Alaska shall be distributed as follows:

(a) fifty per centum to the State of Alaska;

(b) twenty per centum deposited into the Land and Water Conservation Fund;

(c) fifteen per centum to the Migratory Bird Conservation Fund and other fish and wildlife management programs;

(d) ten per centum to miscellaneous receipts in the Treasury; and

(e) five per centum to be used by the Secretary of Energy for funding research, development and commercialization of energy conservation and alternative energy sources authorized in Section 904.

SEC. 602. LAND AND WATER CONSERVATION FUND.—(a)(1) Moneys deposited into the Land and Water Conservation Fund ("the Fund") pursuant to section 601 shall be credited to a special account within the Fund. In addition, beginning the first full fiscal year after funds are credited to the special account, there shall also be credited to the special account an amount equal to the average annual appropriation from the Fund for the five years preceding the date of the initial crediting of funds pursuant to section 601(b). These funds shall be derived from those moneys comprising the authorized but unappropriated balance of the Fund.

(2) Not more than twenty-five percent of the funds deposited into the special account shall be available for State purposes pursuant to section 6 of the Land and Water Conservation Fund Act (16 U.S.C. sec. 4601-8). The balance of the funds in the special account shall be available, without further appropriation, for Federal purposes as provided in section 7 of that Act (16 U.S.C. sec. 4601-9) and shall be allocated in accordance with this section.

(b)(1) At the time of the submission of the President's budget, each Federal land managing agency eligible to receive moneys from the Fund shall provide the Committee on Appropriations of the United States House of Representatives and the United States Senate with a list, in descending order of priority, of land acquisition projects which have been authorized by law (hereinafter in this section referred to as the "priority list").

(2) The priority lists shall be prepared by the Directors of the Bureau of Land Management, National Park Service, Fish and Wildlife Service, Department of the Interior, and the Chief of the Forest Service, United States Department of Agriculture, and shall reflect their best professional judgment regarding the land acquisition priorities of such bureau or agency.

(3) In preparing such lists the following factors shall be considered: the amount of money anticipated to be made available in any one year; the availability of land appraisal and other information necessary to complete the acquisition in a timely manner; the potential adverse impacts on the park, wilderness, wildlife refuge or other such unit which might result if the acquisition is not under-

taken; and such other factors as the land managers deem appropriate.

(c)(1) The Appropriations Committees shall allocate the funds from the special account in accordance with the priority lists submitted pursuant to this section unless such lists are specifically modified in appropriations Acts or reports accompanying such Acts.

(2) The Secretary of the Treasury shall notify the Appropriations Committees of the Congress on an annual basis as to the amounts available for allocation within the special account.

(3) In allocating funds from the special account among land managing agencies, the Appropriations Committee shall ensure that each agency receives a fair and equitable share in accordance with land acquisition needs, congressional directives, and historical patterns of distribution of the fund: *Provided,* That no agency shall receive more than 50 per centum of the funds available from the special account in any one year.

(d) In the event that the Appropriations Committees fail to allocate the funds from the special account, the Secretary of the Treasury is authorized and directed to make such funds directly available to the land managing agencies to be used solely for land acquisition projects on the respective priority lists in accordance with the following formula:

(1) 45 per centum to the Fish and Wildlife Service;

(2) 40 per centum to the National Park Service;

(3) 10 per centum to the Forest Service; and

(4) 5 per centum to the Bureau of Land Management.

SEC. 603. MIGRATORY BIRD CONSERVATION FUND.—(a) Funds credited to the Migratory Bird Conservation Fund pursuant to section 601 of this Act shall be used for the purposes and in accordance with the applicable provisions of the Act of March 16, 1934 (commonly known as the Migratory Bird Hunting Stamp Act, 16 U.S.C. 718–718h).

(b) Section 2 of the Migratory Bird Conservation Act (16 U.S.C. 715a) is amended by—

(1) inserting "(a)" in front of the first sentence; and

(2) inserting after the last sentence the following:

"(b) The commission is also authorized to utilize all or a portion of those fund credited to the migratory bird conservation fund from revenues and receipts generated from oil and gas leasing and related activities on the Arctic National Wildlife Refuge to consider and approve any acquisition recommendation made by the Secretary of the Interior which is pursuant to and in support of any provision of the North American Waterfowl Plan with Canada, signed by the Secretary in May of 1986, or any subsequent amendments thereto, and which provide for appropriate public access and use and the preservation and conservation of such waterfowl habitat in perpetuity.".

SEC. 604. JUDICIAL REVIEW AND NONSEVERABILITY.—(a) Notwithstanding the provisions of section 316 of this Act, any legal action, including an action for declaratory judgment, to challenge the determination made in section 601(a) of this Act of the State of Alaska's share of oil and gas revenues shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent

practicable, take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court. Any such action shall be brought within ninety days of enactment of this Act in an appropriate United States District Court. Such action shall be barred unless a complaint is filed within the time specified. Any review of an interlocutory or final judgment, decree, or order of the United States District Court in such action may be had only upon direct appeal to the Supreme Court of the United States.

(b) Nothing in this section shall be construed to grant causes of action to any person or to waive any defenses which may be available to the United States.

(c) If any action is brought in accordance with subsection (a), no lease sale shall occur under section 304 of this Act until a final nonappealable decision has been issued in any such action.

(d) If the revenue sharing provision of section 601(a) of this Act is held invalid, the remainder of this Act shall be void.

TITLE VII—APPROVAL OF CONVEYANCES IN THE ARCTIC NATIONAL WILDLIFE REFUGE

SEC. 701. Subsection 1302(h) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)) is amended by redesignating the subsection as paragraph "(h)(1)" and by adding the following new paragraph:

"(2) Nothing in this Act or any other provision of law shall be construed as authorizing the Secretary to convey, by exchange or otherwise, lands or interest in lands within the Coastal Plain of the Arctic National Wildlife Refuge (other than land validly selected prior to July 28, 1987), without prior approval by Act of Congress.".

TITLE VIII—ADDITION TO THE ARCTIC NATIONAL WILDLIFE REFUGE

SEC. 801. The lands described in Public Land Order 6607 of July 8, 1985 (50 Fed. Reg. 130), comprising approximately three hundred and twenty-five thousand acres, are hereby included as part of the Arctic National Wildlife Refuge to be subject to and administered in accordance with the provisions of section 303(2) and 304 of the Alaska National Interest Lands Conservation Act (16 U.S.C. Sec. 668dd) and other applicable statutes.

TITLE IX—ENERGY PLAN

SEC. 901. ENERGY PLAN.—(a)(1) Not later than fifteen months after the date of enactment of this Act, the Secretary of Energy, with the advice and assistance of the Chairman of the Council on Environmental Quality, the Secretary of the Interior and the National Academy of Sciences, shall prepare and transmit to the Congress an energy plan which shall include, among other things, a proposed statement of national energy policy objectives.

(2) The plan shall focus on the total projected demand in the United States for energy and for crude oil and petroleum products, in particular, over the estimated period of potential production from the Coastal Plain (approximately through the year 2030). The

plan also shall include a range of likely scenarios for crude oil and petroleum products demand and a description of alternative sources of supply, including imported crude oil and petroleum products, likely to be available to meet such demand.

(3) The information contained in the energy plan shall include, but not be limited to—

(A) a projection of the nation's demand for energy and for crude oil and petroleum products, in particular, in each sector of the domestic economy—transportation, industrial (including chemicals and feed-stocks and by products), residential/commercial, and electric utility;

(B) an estimate of the potentially available supply of crude oil and petroleum products: (i) produced from domestic sources; and (ii) imported from foreign sources;

(C) an estimate of (i) the potentially available supply of crude oil and natural gas from the Arctic region of Alaska (including Prudhoe Bay and adjacent fields) to be derived in part from the study required under section 902, and (ii) the costs of exploration, development, mitigation and reclamation;

(D) an estimate of the potential in-place and economically recoverable reserve of crude oil and natural gas in the Coastal Plain, utilizing the geologic information gathered for the section 1002(h) report and other available information;

(E) an estimate of projected world crude oil prices and economic conditions with specified operative assumptions;

(F) an identification of alternative energy sources of supply that are or may be commercially available to substitute for part of the estimated requirements for crude oil and petroleum products under subsection (a)(2);

(G) an identification, a projection and an estimate of the status and role of each of the following energy sources in meeting projected national energy requirements generally and in providing substitutes for crude oil and petroleum products under the demand projection associated with the scenarios provided for in subsection (a)(2):

(i) coal, including clean coal technologies and underground coal gasification;

(ii) energy conservation, including research and development;

(iii) improvements and technological gains in electrical energy generation and transmission;

(iv) other alternative energy sources such as renewable resources, solar, geothermal, and hydroelectric power; and

(v) improvements in the extraction of energy resources such as oil and natural gas.

(H) an identification of technologies and programs available and their cost of implementation for increasing the efficiency in energy extraction and use, including transportation uses.

(b) POTENTIAL ALTERNATIVES TO MEET DEMAND PROJECTIONS.—The range of demand scenarios under subsection (a) shall identify and evaluate all potential and realistic alternative energy resources available to meet the range of demand scenarios on a consistent basis. The alternative energy resources shall include, but shall not be limited to—

(1) increased efficiency in the use of crude oil and petroleum products through higher fuel efficiency standards, including the identification of any social, environmental, and technology conversion costs associated with the implementation of such standards;

(2) use of substitutes for petroleum products in the transportation sector such as methanol, ethanol, natural gas, and hydrogen, including the identification of research, development, demonstration, production and any environmental technology conversion costs for the use of such substitutes;

(3) producing crude oil and natural gas from the Coastal Plain, including the identification of exploration, development, mitigation, and reclamation costs; and

(4) importing crude oil from foreign sources, including the identification of risks and potential costs of disruption in supply and a range of assumptions concerning the national security risks and potential social and economic costs of cartel imposed supply levels and prices.

(c) RECOMMENDATIONS.—(1) The energy plan shall include a ranking of all potential and realistic alternatives identified under subsection (b). The plan shall identify the most reliable mix of alternatives from the standpoint of national security, consumer costs, impact on the environment, and least regulatory interference with the marketplace. The plan also shall provide recommendations to the Congress concerning the implementation of such alternative or alternatives. Such recommendations shall include any changes in existing laws or regulations or new statutory authority necessary to implement the recommendations contained in the plan, as well as proposed changes in energy research and development priorities and funding.

(2) In developing such recommendations, the Secretary of Energy shall give special consideration to measures which (A) reduce energy costs to consumers; (B) enhance reliability of energy supplies and national security; (C) utilize proven or demonstrated technologies; (D) increase the efficient use of nonrenewable resources such as coal, crude oil and petroleum products; (E) have the least potential social costs and adverse impacts on the environment; (F) minimize the long-term subsidization of alternatives through tax or other Federal aid programs; (G) enhance the diversification of the nation's domestic energy supply; and (H) minimize or reduce reliance on imported oil over the supply-demand period under study.

SEC. 902. OIL AND GAS POTENTIAL DEVELOPMENT IN THE ARCTIC REGIONS OF ALASKA.—(a) The Secretary of the Interior, to accompany the energy plan required under section 901, shall prepare a study of present and projected oil and gas developments in the Arctic region of Alaska, both onshore and offshore, excluding all portions of the Arctic National Wildlife Refuge which are: (1) not held in private ownership; or (2) contained in the Coastal Plain study area.

(b) The study shall include an identification of: (1) those areas which qualified geologists rate as prospective for hydrocarbon accumulation; (2) those areas where seismic work and exploration has taken place and the available results; (3) those areas where seismic work and exploration is projected to occur in the future; and (4)

those areas where exploratory and production drilling has demonstrated the presence of oil or natural gas, regardless of whether commercially recoverable quantities of oil or gas were demonstrated.

(c) The study shall include the projected quantities of oil or natural gas that are or may be recoverable from the Arctic region under a range of world oil prices and economic conditions.

(d) The study shall include an examinaton of the infrastructure needed, beyond what is already in place at Prudhoe Bay, in the trans-Alaska pipeline and the port and marine facilities at Valdez, to develop the oil and gas resources of the Arctic region under a range of development scenarios.

SEC. 903. TRANSMITTAL OF THE ENERGY PLAN AND OTHER STUDIES TO THE CONGRESS.—(a) The energy plan and other studies developed by the Secretaries of Energy and the Interior pursuant to this title shall be transmitted to the Committee on Energy and Natural Resources of the Senate and the respective jurisdictional committees of the House of Representatives no later than fifteen months after the date of enactment of this Act.

(b) The Secretary of the Interior shall not conduct the first lease sales authorized under title III and section 304 of this Act until twenty-one months after the date of enactment of this Act to permit adequate time for review and for action, if any, by the Congress on implementing the energy plan and studies authorized and directed under this title.

(c) The Secretary of the Interior is authorized and directed to proceed with the development and implementation of final regulations to carry out the purposes of this Act, in accordance with the provisions of this Act, during the twenty-one month period required to develop and review the energy plan and studies required by this Title.

SEC. 904. ENERGY CONSERVATION AND ALTERNATIVE ENERGY RESEARCH AND DEMONSTRATION PROGRAMS.—(a) Pursuant to the Federal Non-nuclear Energy Research and Development Act of 1974 (Public Law 93-577), the Secretary of Energy is authorized and directed to establish an Energy Research and Demonstration Grant Program to promote and advance research, development, and commercialization in the areas of energy conservation and alternative energy sources. The energy research and demonstration grant program shall be funded out of revenues received under section 302(e).

(b) The Energy Research and Demonstration Grant Program authorized by this section shall have as its major purpose the development of energy conservation and alternative energy technologies which have the capacity to significantly reduce the nation's growing reliance on imported oil by the end of the century.

TITLE X—EXPORT PROHIBITION ON CRUDE OIL

SEC. 1001. Section 28(u) of the Mineral Leasing Act (30 U.S.C. Sec. 185(u)) is amended as follows: revise the last sentence by striking "concurrent resolution" and inserting in lieu thereof "joint resolution"; redesignate existing subsection "u" as "u(1)"; and add the following new paragraph:

"(2) The provisions of paragraph (1) shall apply to any domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to the Arctic Coastal Plain Competitive Oil and Gas Leasing Act.".

Purpose of the Measure

The purpose of this measure is to authorize and direct the Secretary of the Interior to establish and implement a competitive oil and gas leasing program for the Coastal Plain of the Arctic National Wildlife Refuge, Alaska, which will result in the exploration, development, and production of oil and gas reserves in a manner consistent with the protection of the environment, maintenance of fish and wildlife and their habitat, and the interests of the area's subsistence users.

Background and Need

The Arctic National Wildlife Refuge, (ANWR) in the northeastern corner of Alaska, was first established as the Arctic National Wildlife Range by Public Land Order 2214 in 1960, for the purpose of preserving unique wildlife, wilderness, and recreational values. The order withdraw the original 8.9 million acre range from all forms of appropriation under the public land laws, including mining laws but excluding the mineral leasing laws. This order culminated extensive efforts begun more than a decade earlier to preserve this unique part of Alaska.

The Alaska National Interest Lands Conservation Act (ANILCA), passed in 1980, established 16 National Wildlife Refuges in Alaska, among them the 19 million acre Arctic National Wildlife Refuge. Today, ANWR encompasses the original 8.9 million acre wildlife range and approximately 10 million additional acres of adjoining lands west toward the Trans-Alaska Pipeline System (TAPS) and south to the Yukon Flats. Approximately 8 million acres of ANWR, comprising most of the original Arctic National Wildlife Range, was designated as a component of the National Wilderness Preservation System by ANILCA.

ANWR offers wildlife, scientific, recreational, and esthetic values unique to the Arctic coastal ecosystem. In ANWR, a person traveling on foot or by boat can traverse a full range of North Slope landscapes and habitats, because of the proximity of the Arctic coast to the mountains. The four tallest peaks in the Brooks Range are found in the Arctic Refuge.

ANWR contains the only extensive active glaciers in the Brooks Range. Found on the refuge is a full complement of arctic flora and fauna, including the calving grounds for the Porcupine caribou herd, the second largest in Alaska (approximately 180,000 caribou), and habitat for the threatened Arctic peregrine falcon, the lesser snow goose, other migratory bird species, and reintroduced muskoxen.

At the time, the North Slope of Alaska, and the coastal plain area of ANWR in particular, have long been recognized as areas with excellent potential for large oil and gas reserves. While there has been exploration in the Arctic region for many years, the most notable success came in 1968 with the discovery of oil and gas at

Prudhoe Bay. Located just 65 miles west of the ANWR, the Prudhoe field has proven to be the largest in North America with original producible reserves of 9.6 billion barrels of oil and 26 trillion cubic feet of gas. Current production from Prudhoe Bay averages 1.8 million barrels per day—approximately 20 percent of the total U.S. domestic crude oil production.

The coastal portion of ANWR is a particularly promising area for oil and gas. For years, this area has been rated by many geologists as the most outstanding target in the onshore United States.

The Study

During the consideration of ANILCA, some wanted all of ANWR included in the National Wilderness Preservation System while others argued that at least some of this area should be made available for oil and gas exploration and development. For example, the House twice passed legislation designating all of ANWR as wilderness. The version of ANILCA ultimately enacted into law, however, recognized that additional information was necessary before a final decision could be made regarding that portion of ANWR with the highest oil and gas potential.

Section 1002 of ANILCA required the Secretary of the Interior to comprehensively study a 1.5 million acre strip (100 miles long and 30 miles wide) along the coast of ANWR (the Coastal Plain), the area generally recognized as having the highest oil and gas recovery potential.

The Secretary was directed to transmit this study to the Congress not earlier than five years the enactment of ANILCA and not later than 5 years and 9 months after that date. The report was to contain:

1. The identification, by means other than drilling of exploratory wells, of those areas within the Coastal Plain that have oil and gas production potential and an estimate of the volume of the oil and gas concerned;
2. A description of the fish and wildlife, their habitats, and other resources that are within the area;
3. An evaluation of the adverse effects that the carrying out of further exploration for, and the development and production of, oil and gas within such area may have on these resources;
4. A description of how such oil and gas, if produced within such area, may be transported to processing facilities;
5. An evaluation of how such oil and gas relates to the national need for additional domestic sources of oil and gas; and
6. The recommendation of the Secretary with respect to whether further exploration for, and the development and production of, oil and gas within the Coastal Plain should be permitted and, if so, what additional legal authority is necessary to ensure that adverse effects of such activities on fish and wildlife, their habitat, and other resources are avoided or minimized.

Section 1003 of ANILCA makes it clear that Congress reserved to itself the decision to open the Coastal Plain to to development:

> Production of oil and gas from the Arctic National Wildlife Refuge is prohibited and no leasing or other develop-

> ment leading to production of oil and gas from the range shall be undertaken until authorized by an Act of Congress.

Likewise, section 1004 directs that, subject to valid existing rights and the activities carried out to gather information for the 1002 study, the Coastal Plain shall, until Congress determines otherwise, be administered to maintain its presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

THE 1002 REPORT—RECOMMENDATION AND FINDINGS

Recommendation

In April 1987, the Secretary of the Interior transmitted the report required by section 1002 of ANILCA ("1002 Report") to the Congress. The Secretary recommended that the entire 1.5 million acre Coastal Plain be opened to oil and gas leasing. In the letter of transmittal, the Secretary stated:

> Based on the analyses conducted, public comment on the draft report, the national need for domestic sources of oil and gas, and the Nation's ability to develop such resources in an environmentally sensitive manner as demonstrated by two decades of success at Prudhoe Bay and elewhere, I have selected as my preferred alternative, making available for consideration the entire Arctic Refuge Coastal Plain for oil and gas leasing.

The report also recommends that oil and gas development and production be permitted on some 92,000 acres of privately-owned lands north of the Coastal Plain owned by two Alaska Native Corporations, the Arctic Slope Regional Corporation (ASRC) and the Kaktovik Village Corporation (KIC). It should be noted that although these lands are privately owned, in accordance with section 22(g) of the Alaska Native Claims Settlement Act, they remain subject to the law and regulations governing development of the ANWR. As such, oil and gas leasing and development cannot occur on the KIC/ASRC lands until authorized by an Act of Congress.

Findings

The following is a brief summary of the major findings contained in the 1002 report.

1. Oil and gas resources

ANWR is located between producing fields to the west at Prudhoe Bay and the Canadian Beaufort Sea/Mackensie Delta region to the east. Based on extensive surface geological and seismic studies of the Coastal Plain, the report concludes that oil and gas resources are likely to be found in 26 identified subsurface structures in the area. The 1002 report estimates that there is a 95-percent chance that the Coastal Plain contains more than 4.8 billion barrels of oil and 11.5 trillion cubic feet of gas in place. According to the report, there is a 5-percent chance that the Coastal Plain contains 29.4 billion barrels of oil and 64.5 trillion cubic feet of gas.

In terms of recoverable resources, there is a 19 percent chance that an economic field will be discovered on ANWR's Coastal Plain.

The mean estimate for recoverable oil is 3.2 billion barrels. The economically recoverable reserves could range from a low of 600,000 barrrels to up to 9.2 billion barrels.

The unique geologic features underlying the 1002 area create the potential for discoveries which would make a very substantial contribution to domestic oil reserves. Despite the area's remote location and hostile environment, it is the petroleum exploration target in the onshore United States having the greatest potential. Data from outcropping rocks within the area and from nearby wells, combined with seismic information gathered from 1983 to 1985, indicate geological conditions which are exceptionally favorable for major discoveries.

2. Fish and wildlife resources

The 1002 report makes the following assessment with regard to fish and wildlife:

> The Arctic Refuge is the only conservation system unit that protects, in an undisturbed condition, a complete spectrum of the arctic ecosystems in North America. Approximately 8 million acres of the refuge is designated as wilderness by ANILCA section 702(3), and adjoins the 1002 area on the south and east, including the coastal plain from the eastern 1002 boundary to the Canadian border * * * The 1002 area is the most biologically productive part of the Arctic Refuge for wildlife and is the center of wildlife activity. It serves as an important calving ground for the porcupine caribou herd; it contains a high percentage of the refuge's observed muskoxen range; it is an important staging area for lesser snow geese; it provides nesting habitat for waterfowl and shorebirds; and it is frequently used by polar bears from the Beaufort Sea population. Migrating caribou and the postcalving caribou aggregation offer an extraordinary spectacle. The area presents many opportunities for scientific study of a relatively undisturbed ecosystem.

3. Environmental impacts associated with development

While the report concludes that exploration and development drilling would have only minor effects on wildlife resources in the 1002 area, full production would have potentially major effects" on the 180,000 caribou in the porcupine caribou herd and on muskoxen in the refuge. As used in the report, major effects on wildlife include: widespread, long-term change in habitat availability or quality which would likely modify natural abundance or distribution of species.

The report notes that oil development "would result in long term changes in the wilderness environment, wildlife habitats, and Native community activities currently existing."

The report also concludes that the wilderness character of the 1002 area would be lost if oil and gas development and production occur.

The report also identifies a number of environmental consequences associated with oil and gas development and production:

—loss of a portion of the caribou calving grounds and other wildlife habitats;
—effects on Native culture, hastening changes in life style from one of subsistence use of the land to an industrial society with a cash-based economy;
—reduced air and water quality and industrial commitment of gravel and water resources; and
—the wilderness values of the fragile and limited Arctic Coastal Plain ecosystem would be gone for a century or more.

4. Transportation of ANWR oil

The 1002 report cites the proximity of the Prudhoe Bay fields and the TAPS as important factors in facilitating the economies of Coastal Plain oil production. Under the preferred alternative contained in the report, a 150 mile east-west pipeline would be constructed across the Coastal Plain to connect into TAPS Pump Station 1 at Prudhoe Bay.

Production from the Coastal Plain could begin in the late 1990's, at a time when Prudhoe production is predicted to begin declining to the point that TAPS would have extra capacity. Transportation of ANWR oil would prolong the useful life of the pipeline and permit continued production from North Slope fields that would otherwise be uneconomical.

5. Evaluation of the need for domestic supplies of oil

The 1002 report emphasizes that the growing U.S. reliance on imported oil could have potentially serious implications for national security. Domestic production declined in 1986 by 10 percent and is projected to decline by 4 to 5 percent in 1987. At the same time, U.S. consumption is on the rise. OPEC countries are expected to supply up to 60 percent of the world oil by 1995 when the United States will import over half of its supplies at an estimated cost of $80 billion.

In addition, the 1002 report notes the economic benefits, especially on the balance of trade, from oil production on the Coastal Plain. Based on the mean recoverable oil estimate of 3.2 billion barrels, ANWR production by the year 2006 could provide 4 percent of total U.S. demand (about 660,000 barrels per day) and reduce imports by nearly 9 percent.

The billions of barrels of oil that may exist in the 1002 area could make an important contribution to the national need for domestic sources of oil. Alaska North Slope crude oil, especially that from Prudhoe Bay, now contributes approximately 20 percent of domestic poduction. However, production from Prudhoe Bay has peaked and a decline is expected no later than 1988. The Kuparuk River and other fields are still being developed. They will begin to decline in the 1990's. Oil from the 1002 area could help moderate these declines in supply and substantially reduce the need for increased imports.

If productive, the 1002 area's fields could be the largest domestic fields discovered since Prudhoe Bay and the adjacent Kuparuk River fields in 1968 and 1969. Except for these, no U.S. field with reserves exceeding 1 billion barrels of oil has been discovered since 1949. The size of the 1002 area's structures and their potential for

oil accumulations are geologically the Nation's best onshore targets for the discovery of very large oil fields. It productive, the large fields would join the list of "giant" oil fields which have contributed more than two-thirds of total domestic oil production. The previously discovered giants, except for the two Alaskan fields, are more than 75 percent depleted and even the Prudhoe Bay field is almost half depleted.

The Committee carefully considered the findings of this report as well as additioanl information during nine days of hearings and five business meetings. The measure reported by the Committee opens the Coastal Plain of ANWR to oil and gas leasing, development and production. The Committee believes this bill balances the national need to explore for and develop the oil and gas resources of this highly promising area with the responsibility to protect and maintain the wildlife, fish, subsistence, and others values present on the Coastal Plain.

Legislative History

Pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980, the Secretary of the Interior transmitted his report to the Congress regarding the Coastal Plain of the ANWR in April 1987. The Full Committee conducted oversight hearings on this report on June 2, 4, 11, 12, and July 22.

On May 15, 1987, Senators Murkowski, Stevens, and others introduced S. 1217, a bill to amend the Mineral Leasing Act of 1920 to authorize the Secretary of the Interior to lease, in an expeditious and environmentally sound manner, the public lands within the Coastal plain of the North Slope of Alaska for oil and gas exploration, development, and production. Full Committee hearings were conducted on this measure on October 13, 14, 15, and 22.

A joint majority/minority staff draft bill was prepared at the direction of Senator Johnston and Senator McClure and circulated to all members of the Committee on January 29, 1988. This staff draft served as the mark-up vehicle during the Committee's consideration of this issue.

The Committee met in open business sessions to consider legislation regarding the Coastal Plain of ANWR on February 3, 4, 17, 24 and 25.

At a business meeting on February 25, 1988, the Senate Committee on Energy and Natural Resources ordered an original bill favorably reported

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on February 25, 1988, by a majority vote of a quorum present recommends that the Senate pass the bill as described herein.

The rollcall vote on reporting the measure was 11 yeas, 8 nays as follows:

YEAS	NAYS.
Mr. Johnston	Mr. Bumpers
Mr. Melcher*	Mr. Ford

Mr. McClure
Mr. Hatfield*
Mr. Weicker*
Mr. Domenici
Mr. Wallop
Mr. Murkowski
Mr. Nickles
Mr. Hecht
Mr. Evans

Mr. Metzenbaum
Mr. Bradley
Mr. Bingaman
Mr. Wirth
Mr. Fowler
Mr. Conrad

*Indicates voted by proxy

Section-by-Section Analysis

Section 1 sets forth the short title of the act.

TITLE I—STATEMENT OF PURPOSE AND DEFINITIONS

Section 101 sets forth the purpose and policy of the Act.
Section 102 sets forth definitions.

TITLE II—MANAGEMENT OF THE COASTAL PLAIN

Section 201 sets forth congressional policy on the Coastal Plain. It provides that authorized oil and gas activities will be conducted so as to result in no significant adverse effect on fish and wildlife, there habitat, and the environment. Such activities are, by this legislation, deemed to be compatible with the major purposes of the refuge. No further findings or determinations of compatibility under the National Wildlife Refuge System Administration Act are required.

TITLE III—COASTAL PLAIN COMPETITIVE LEASING PROGRAM

Subsection 301(a) states that Congress directs the Secretary of the Interior and other appropriate Federal officers and agencies to take such actions as are necessary to establish and implement a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain.

Subsection 301(b) provides that this Act shall be the sole authority for leasing on the Coastal Plain.

Subsection 302(a) provides that the Secretary shall prescribe such rules and regulations as may be necessary to carry out the purposes and provisions of the Act, including rules and regulations relating to protection of the environment of the Coastal Plain, as required by Title IV of the Act. Such rules and regulations shall be promulgated within nine months after the date of enactment of the Act.

Subsection 302(b) provides that in the formulation and promulgation of rules and regulations under the Act, the Secretary shall give due consideration to the views of appropriate officials of the State of Alaska and the Government of Canada and shall consult with the Environmental Protection Agency and the Army Corps of Engineers in developing rules and regulations relating to the environment.

Subsection 302(c) provides that the Secretary shall periodically review and, if appropriate, revise the rules and regulations.

Subsection 303(a) provides that the "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 ("ANILCA") and section 102(2)(C) of the National Environmental Policy Act of 1969 ("NEPA"), is found by the Congress to be adequate to satisfy the legal requirements under NEPA with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of the leasing program prior to conducting the first lease sale.

Subsection 303(b) provides that except as provided in subsection (a), nothing in the Act shall be considered or construed as otherwise limiting or affecting in any way the applicability of section 102(2)(C) of NEPA to all phases of oil and gas leasing, exploration, development and production and related activities conducted under or associated with the leasing program authorized by the Act, nor shall anything in the Act be considered or construed as in any way limiting or affecting the applicability of any other Federal or state law relating to the protection of the environment.

Subsection 304(a) provides that lands may be leased pursuant to the provisions of the Act to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act, as amended.

Subsection 304(b) provides that the Secretary shall, by regulation, establish procedures for certain specified activities.

Subsection 304(c) provides that the Secretary shall, by regulation, provide for lease sales of lands on the Coastal Plain. When lease sales are to be held, they shall occur after the nomination process. For the first lease sale, the Secretary shall, consistent with the requirements set forth in Title IV of this Act, offer for lease those acres receiving the greatest number of nominations, but not to exceed a total of 300,000 acres. If the total acreage nominated is less than 300,000 acres, he shall include in such sale any other acreage which he believes has the highest resource potential, but in no event shall more than 300,000 acres of the Coastal Plain be leased in such sale. Thereafter, no more than 300,000 acres of the Coastal Plain may be leased in any one lease sale. The initial lease sale shall be held within eighteen months of the issuance of final regulations by the Secretary; but no earlier than 21 months after the date of enactment. The second lease sale shall be held thirty-six months after the initial sale, with additional sales conducted every twenty-four months thereafter so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

Subsection 304(d) provides that areas of the Coastal Plain deemed by the Secretary to be of particular environmental sensitivity may be excluded from leasing by the Secretary and that notice shall be provided to the specified appropriate Committees of the Congress. If the Secretary later determines that exploration, development, or production will result in no significant adverse effect on fish and wildlife, their habitat, and the environment, the Secretary

shall, consistent with the provisions of subsection (c), offer such lands for leasing.

Subsection 305(a) provides that the Secretary is authorized to grant to the highest responsible qualified bidder by sealed competitive bid any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary and of the royalty fixed in the lease, which shall be not less than twelve and one-half per centum in amount of value of the production removed or sold from the lease.

Subsection 305(b) provides that the Secretary shall not accept a bid for a lease if the Secretary finds, after notice and hearing, that the bidder is not meeting the diligent development requirements imposed by law for any other Federal mineral lease.

Section 306 sets forth lease terms and conditions. The provisions are self-explanatory.

Subsection 307(a) provides that all exploration activities pursuant to any lease issued or maintained under the Act shall be conducted in accordance with an approved exploration plan or an approved revision of such plan. The remaining provisions of the subsection are self-explanatory.

Subsection 307(b) provides that all development and production pursuant to a lease issued or maintained pursuant to the Act shall be conducted in accordance with an approved development and production plan. The remaining provisions of the subsection are self-explanatory.

Subsection 307(c) sets forth information to be included in exploration plans and development and production plans where applicable.

Subsection 307(d) sets forth procedures for plan approval. The provisions are self-explanatory.

Subsection 307(e) provides that if at any time while activities are being carried out under a plan approved under this section, the Secretary, on the basis of available information, determines that the continuation of any particular activity under the plan is likely to result in a significant adverse effect on fish or wildlife, their habitat, or the environment, the Secretary, after consultation with the lessee shall: (1) make modifications to part or all of the plan as necessary or appropriate to avoid the significant adverse effect; (2) temporarily suspend part or all of the drilling or related activity under the plan for such time as the Secretary considers necessary or appropriate to avoid such significant adverse effect; or (3) terminate and cancel the plan where actions under paragraphs (1) or (2) will not avoid the significant adverse effect.

Subsection 308(a) sets forth the requirement for a performance bond. The provisions of the subsection are self-explanatory.

Subsection 308(b) sets forth the requirements relating to the amount of the performance bond. The provisions of the subsection are self-explanatory.

Subsection 308(c) provides that in the event that an approved exploration or development and production plan is revised, the Secretary may adjust the amount of the bond to conform to such modified plan.

Subsection 308(d) provides that the responsibility and liability of the lessee and its surety under the bond or security deposit shall continue until such time as the Secretary determines that there

has been compliance with the terms and conditions of the lease and all applicable law.

Subsection 308(e) provides that within sixty days after determining that there has been compliance with the terms and conditions of the lease and all applicable laws, the Secretary shall notify the lessee that the period of liability under the bond or security deposit has been terminated.

Section 309 provides that the Secretary may direct or assent to the suspension of operations and production under any lease granted under the terms of this Act: (1) in the interest of conservation of the resource; (2) where there is no available system to transport the resource; or (3) where there is a threat of significant adverse effect upon fish or wildlife, their habitat or the environment. If a suspension is directed or assented to by the Secretary, any payment of rental prescribed by such lease shall be suspended during such period of suspension of operations and production, and the term of the lease shall be extended by adding any such suspension period thereto.

Subsection 310(a) sets forth the requirements relating to cancellation of nonproducing leases. The provisions of the subsection are self-explanatory.

Subsection 310(b) sets forth the requirements relating to cancellation of producing leases. The provisions of the subsection are self-explanatory.

Paragraph 310(c)(1) provides that in addition to the authority for lease cancellation provided for by subsections (a) and (b) of this section, any lease may be cancelled at any time, if the Secretary determines, after a hearing, that: (1) continued activity pursuant to such lease is likely to result in a significant adverse effect to fish or wildlife, their habitat, or the environment, or is likely to result in serious harm or damage to human life, to property, or to the national security or defense; and (2) the likelihood of a significant adverse effect will not disappear within a reasonable period of time or the threat of harm or damage will not disappear or decrease to any acceptable extent within a reasonable period of time.

Paragraph 310(c)(2) provides that cancellation under subsection (c) shall not occur unless and until operations under such lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease term continuously for a period of five years, or for a lesser period upon request of the lessee.

Paragraph 310(c)(3) provides that cancellation under subsection (c) shall entitle the lessee to receive such compensation as the lessee demonstrates to the Secretary to be equal to the excess, if any, over the lessee's revenues from the lease (plus interest thereon from the date of receipt to the date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement).

Section 311 provides that no lease issued under the authority of the Act shall be assigned or sublet, except with the consent of the Secretary.

Section 312 provides that the lessee may, at the discretion of the Secretary, be permitted at any time to make written relinquishment of all rights under any lease issued pursuant to this Act. The Secretary shall accept the relinquishment by the lessee of any lease issued under this Act where there has not been surface disturbance on the lands covered by the lease.

Section 313 provides that the Secretary shall require to the greatest extent practicable, that lessees unite with each other in collectively adopting and operating under a cooperative or unit plan of development for operation of such pool, field, or like area, or any part thereof.

Section 314 sets forth requirements relating to oil and gas information. The provisions of the section are self-explanatory.

Subsection 315(a) provides that except as provided in section 316 of the Act, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with, any lease issued under the Act. Proceedings may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district in which the Coastal Plain is located.

Subsection 315(b) provides that at the request of the Secretary, the Attorney General or a United States Attorney shall institute a civil action in the district court of the United States for the district in which any defendant resides or may be found, or in the judicial district in which the Coastal Plain is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of the Act, any regulation or order issued under this Act, or any term of a lease issued pursuant to the Act.

Subsection 315(c) authorizes civil penalties of not more than $10,000 for each day of the continuance of a failure to comply with the Act, a lease term, or a regulation or order issued under the Act, after notice of such failure and expiration of any reasonable period allowed for corrective action. The remaining provisions of the subsection are self-explanatory.

Subsection 315(d) provides for criminal penalties of not more than $100,000 or imprisonment for not more than ten years, or both. The remaining provisions of the subsection are self-explanatory.

Subsection 315(e) sets forth provisions relating to the liability of corporate officers and agents for violations by a corporation or other entity. The provisions of the subsection are self-explanatory.

Subsection 315(f) is self-explanatory.

Subsection 315(g) provides that notwithstanding any other provision of law, if any area of the Coastal Plain has been or is being polluted by discharges of oil or hazardous or toxic substances from exploration, development, or production of oil or gas or related activities, conducted by, or on behalf of, a responsible party, and if the pollution has damaged or is damaging fish or wildlife, their habitat, or the environment of the Coastal Plain, or if such pollution is causing a substantial threat of damaging those fish or wildlife, their habitat, or the environment of the Coastal Plain, the responsible party shall be jointly, severally and strictly liable for the removal costs and damages specified in this subsection that arise directly out of or directly result from pollution that has damaged,

or is damaging or is causing a substantial threat of damaging fish or wildlife, their habitat, or the environment of the Coastal Plain. The remaining provisions of the subsection are self-explanatory.

Section 316 provides for expedited judicial review. The provisions of the section are self-explanatory.

Section 317 is self-explanatory.

Section 318 provides that the prohibitions and limitations contained in section 1003 of ANILCA, insofar as they have application to the subsurface property interests owned by the Inupiat Eskimo people within and adjacent to the Coastal Plain, are repealed. No surface disturbance in support of oil or gas development or production involving such subsurface property interests shall be authorized prior to publication of final regulations issued pursuant to the Act which establish environmental stipulations, terms and conditions for oil and gas leasing on the Coastal Plain. The substantive provisions of such environmental stipulations, terms and conditions shall apply to the development of all subsurface property interests owned by the Inupiat Eskimo people within and adjacent to the Coastal Plain.

TITLE IV—COASTAL PLAIN ENVIRONMENTAL PROTECTION

Subsection 401(a) provides that the Secretary shall administer the provisions of this Act through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment, and that shall require the application of the best commercially available technology for oil and gas exploration, development, and production, on all new exploration, development, and production operations, and whenever practicable, on existing operations.

The Committee does not intend that the environmental standard contained in this bill, i.e., "no significant adverse effects on fish and wildlife, their habitat, and environment", be interpreted to prohibit all leasing, development and production in ANWR. At the same time, the Committee recognizes that when applied on a case-by-case basis the standard may indeed result in certain activities being precluded or prohibited. The Committee recognizes that if exploration, development and production of oil and gas are to occur as authorized, certain facilities necessary to those activities will be required and certain impacts on the environment are inevitable. However, the bill requires that those activities, while expected and authorized, will be conducted in a manner which will result in no significant adverse effects on the environment. This standard is expected to be interpreted reasonably.

The Committee does not intend the "no significant adverse effect" standard to be equated to the standard applicable under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) for determining whether preparation of any environmental impact statement is required. The Committee anticipates that environmental impact statements may be required at various steps in the leasing process. This is not to say, however, that because an

action is deemed to be a "major federal action significantly affecting the quality of the human environment" for the purposes of NEPA that it also would ipso facto result in a "significant adverse effect on fish and wildlife, their habitat, or the environment" within the context of the Arctic Coastal Plain Competitive Oil and Gas Leasing Act.

The Committee is mindful that the standard in NEPA is a procedural one, i.e., a standard used to determine whether the environmental impact statement process must be undertaken. The Committee intends the "no significant adverse effect" standard to be a substantive standard, and thus expects that the NEPA standard and the standard in this Act will be construed to have different meanings. In addition, the plain language of the standards is different, and the Committee therefore expects that the standards would not be construed to be identical.

The legislation contains detailed directives relating to the stipulations, conditions and mitigation requirements governing oil and gas exploration, development and production. The Committee believes that if these requirements, as well as other applicable federal and state laws, are complied with, there can be a meaningful program of oil and gas development without significant adverse effects on fish and wildlife, their habitat, and the environment.

Subsection 401(b) provides that the Secretary shall also require, with respect to any proposed drilling and related activities, that (1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, and the environment; and (2) a mitigation plan be implemented to avoid, minimize or compensate for any adverse effect assessed under paragraph (1) of the subsection.

Subsection 402(a) provides that prior to implementing the leasing program authorized by Title III of the Act, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken in the Coastal Plain authorized by the Act are conducted in a manner consistent with the purposes and environmental requirements of the Act.

Subsection 402(b) provides that the proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program authorized by Title III of this Act shall require compliance with all applicable provisions of federal and state environmental law and shall also require:

(1) as a minimum, the safety and environmental mitigation measures set forth in items one through twenty-nine (1 through 29) at pages 167 through 169 of the "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain;

(2) seasonal limitations on exploration, development and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning and migration;

(3) that exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 and that exploration activities will be supported by ice roads, winter trails with adequate snow cover,

ice pads, ice airstrips, and air transport methods: *Provided,* That such exploration activities may be permitted at other times if the Secretary determines, after affording an opportunity for public comment and review, that special circumstances exist necessitating that exploration activities be conducted at other times of the year and he finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

For purposes of this provision, ice roads need not be the exclusive means of access. Other means of access, such as the use of helicopters, resulting in less impact on the environment would be permitted. Exploration activities using helicopters as the means of access may take place during times other than the period between approximately November 1 and May 1 if such activities comply with the standards set forth in this provision;

(4) design safety and construction standards for all pipelines and any access and service roads;

(5) prohibitions on public access and use on all pipeline access and service roads;

(6) stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this Act, requiring the removal from the Coastal Plain of all oil and gas development and production facilites, structure and equipment upon completion of oil and gas production operations: *Provided,* That the Secretary may exempt from the requirements of this paragraph those facilites, structures or equipment which the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and which are donated to the United States for that purpose;

(7) appropriate prohibitions or restrictions on access by all modes of transportation;

(8) appropriate prohibitions or restrictions on sand and gravel extraction;

(9) consolidation of facility siting;

(10) appropriate prohibitions or restrictions on use of explosives;

(11) avoidance, to the extent practicable, of springs, streams and river system; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for explaratory drilling;

(12) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(13) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, in accordance with applicable Federal and State environmental law;

(14) fuel storage and oil spill contingency planning;

(15) research, monitoring and reporting requirements;

(16) field crew environmental briefings;

(17) avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users;

(18) compliance with applicable air and water quality standards;

(19) appropriate seasonal and safety zone designations around well sites within which subsistence hunting and trapping would be limited;

(20) reasonable stipulations for protection of cultural and archeological resources; and

(21) all other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

Subsection 402(c) provides that in preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider: (1) the environmental protection standards which governed the initial Coastal Plain seismic exploration program (50 Code of Federal Regulations 37.31-33); (2) the land use stipulations for exploratory drilling on the KIC-ASRC private lands which are set forth in Appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and ther United States; and (3) the operational stipulations for Koniag ANWR Interest lands contained in the draft Agreement between Koniag, Inc. and the United States of America on file with the Secretary of the Interior on December 1, 1987.

Subsection 403(a) designates the Sadlerochit Spring area to be a Special Area. The remaining provisions of the subsection are self-explanatory.

Subsection 403(b) authorizes the Secretary to designate other areas of the Coastal Plain as Special Areas if the Secretary determines they are of unique character and interest so as to require such special protection. The remaining provisions of the subsection are self-explanatory.

Subsection 404(a) requires the Secretary, after providing for public notice and comment, to prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources. The subsection sets forth objectives for the plan.

Subsection 404(b) provides that the plan shall supplement any comprehensive conservation plan prepared pursuant to the requirements of section 304(g) of ANILCA.

Section 405 provides that notwithstanding Title XI of ANILCA, the Secretary is authorized to grant under section 28 of the Mineral Leasing Act rights-of-way and easements across the Coastal Plain for the transportation of oil and gas under such terms and conditions as may be necessary so as not to result in a significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain. Such terms and conditions shall include requirements that facilities be sited or modified so as to avoid unnecessary duplication of roads and pipelines. The comprehensive oil and gas leasing and development regulations issued pursuant to the Act shall include provisions regarding the granting of rights-of-way across the Coastal Plain.

Section 406 provides that in addition to any other environmental studies required by law, subsequent to exploring or developing of any area or region of the Coastal Plain, the Secretary shall conduct such additional studies to establish environmental information as

he deems necessary. The remaining provisions of the section are self-explanatory.

Subsection 407(a) provides that the Secretary shall diligently enforce all regulations, lease terms, conditions, restrictions, prohibitions, and stipulations promulgated pursuant to this Act.

Subsection 407(b) sets forth responsibilities of holders of a lease. The provisions of the section are self-explanatory.

Subsection 407(c) provides that the Secretary shall promulgate regulations to provide for onsite inspection of facilities. The provisions of the section are self-explanatory.

TITLE V—LAND RECLAMATION AND RECLAMATION LIABILITY FUND

Section 501 provides that the holder of a lease or leases on lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands adversely affected in connection with exploration, development, or transportation activities on a lease within the Coastal Plain. The holder of a lease shall also be responsible for conducting any land reclamation required as a result of activities conducted on the lease by any of the lease holder's subcontractors or agents. The holder of a lease may not delegate or convey, by contract or otherwise, this responsibility and liability to another party without the express written approval of the Secretary.

Section 502 provides that the standard to govern the reclamation of lands required to be reclaimed under the Act, following their temporary disturbance or upon the conclusion of their use or prolonged commercial production of oil and gas and related activities, shall be reclamation and restoration to a condition as closely approximating the original condition of such lands as is feasible using the best commercially-available technology. Reclamation of lands shall be conducted in a manner that will not itself impair or cause significant adverse effects on fish or wildlife, their habitat, or the environment.

Subsection 503(a) directs that within six months of a commercial discovery within the Coastal Plain, the Coastal Plain Liability and Reclamation Fund (the "Reclamation Fund") be established as a non-profit corporate entity under the laws of Alaska that may sue and be sued in its own name. The remaining provisions of the subsection are self-explanatory.

Subsection 503(b) provides that the operator of the trans-Alaska pipeline shall collect from the owner of any commercially-produced crude oil or natural gas liquids from the Coastal Plain at the time and point where such crude oil first enters the trans-Alaska pipeline a fee of five cents per barrel. The collection of the fee shall cease when $50,000,000 has been accumulated in the Reclamation Fund, and it shall be resumed at any time that the accumulation of revenue in the Reclamation Fund falls below $45,000,000.

Subsection 503(c) provides that all revenues collected under subsection (b) shall be paid into the Reclamation Fund. The remaining provisions of the subsection are self-explanatory.

Subsection 503(d) provides that the revenues in the Reclamation Fund shall be available, with the approval of the Secretary, for certain designated purposes.

Subsection 503(e) provides that the United States shall have legal recourse against any party or entity who is responsible for the reclamation of any area within the Coastal Plain, to recover funds expended due to a failure by the responsible party to reclaim such area as required by this Act: *Provided,* That such right of recovery shall not be available against any Alaska Natives conducting traditional subsistence use activities. Any funds so recovered shall be deposited in the Reclamation Fund.

Subsection 503(f) provides that any moneys remaining in the Reclamation Fund fifty years after the period of active oil and gas exploration, development, production and reclamation has been concluded in the Coastal Plain shall be paid into the Migratory Bird Conservation Fund.

TITLE VI—DISPOSITION OF OIL AND GAS REVENUES

Section 601 provides that notwithstanding any other provision of law, all revenues received from competitive bids, sales, bonuses, royalties, rents, fees, interest charges or other income derived from the leasing of oil and gas resources within the Arctic National Refuge, Alaska shall be distributed as follows: (a) fifty per centum to the State of Alaska; (b) twenty per centum deposited into the Land and Water Conservation Fund; (c) fifteen per centum to the Migratory Bird Conservation Fund and other fish and wildlife management programs; (d) ten per centum to miscellaneous receipts in the Treasury; and (e) five per centum to be used by the Secretary of Energy for funding research, development and commercialization of energy conservation and alternative energy sources authorized in Section 904.

Subsection 602(a) establishes a special account within the Land and Water Conservation Fund ("the Fund"). The remaining provisions of the subsection are self-explanatory.

Subsection 602(b) provides that at the time of the submission of the President's budget, each Federal land managing agency eligible to receive moneys from the Fund shall provide the Committee on Appropriations of the United States House of Representatives and the United States Senate with a list, in descending order of priority, of land acquisition projects which have been authorized (the "priority list"). The subsection sets forth requirements relating to the priority lists and factors to be considered in preparing such lists.

Subsection 602(c) provides that the Appropriations Committees shall allocate the funds from the special account in accordance with the priority lists submitted pursuant to this section unless such lists are specifically modified in appropriations Acts or reports accompanying such Acts. No agency shall receive more than fifth per centum of the funds available from the special account in any one year. The remaining provisions in the subsection are self-explanatory.

Section 602(d) provides that in the event that the Appropriations Committees fail to allocate the funds from the special account, the Secretary of the Treasury is authorized and directed to make such funds directly available to the land managing agencies to be used solely for land acquisition projects on the respective priority lists in

accordance with the following formula: (1) forty-five per centum to the Fish and Wildlife Service; (2) forty per centum to the National Park Service; (3) ten per centum to the Forest Service; and (4) five per centum to the Bureau of Land Management.

Subsection 603(a) provides that funds credited to the Migratory Bird Conservation Fund pursuant to section 601 of this Act shall be used for the purposes and in accordance with the applicable provisions of the Act of March 16, 1934.

Subsection 603(b) amends Section 2 of the Migratory Bird Conservation Act as specified.

Subsection 604(a) provides that any legal action, including an action for declaratory judgment, to challenge the determination made in section 601(a) of this Act of the State of Alaska's share of oil and gas revenues shall be expedited in every way by the court. Any such action shall be brought within ninety days of enactment of this Act in an appropriate United States District Court, or such action shall be barred. Any review of an interlocutory or final judgment, decree, or order of the United States District Court in such action may be had only upon direct appeal to the Supreme Court of the United States.

Subsection 604(b) is self-explanatory.

Subsection 604(c) provides that if any action is brought in accordance with subsection (a), no lease sale shall occur under section 304 of the Act until a final nonappealable decision has been issued in any such action.

Subsection 604(d) provides that if the revenue sharing provision of section 601(a) of the Act is held invalid, the remainder of the Act shall be void.

The Committee is aware that the State of Alaska contends that the Alaska Statehood Act guarantees that the State will receive 90 percent of any mineral revenues from ANWR unless the State agrees to accept a different percentage.

The Committee strongly disagrees with the State's contention.

The Committee carefully considered the State's contention and determined that the Alaska Statehood Act in no way restricts Congress to the distribution scheme set out in the Mineral Leasing Act when it enacts legislation to provide for distribution of revenues from new mineral leases. We agree with the conclusion of the Solicitor of the Department of the Interior that:

> Congress has the authority under the Property Clause of the Constitution to alter the distribution formula set out in the Mineral Leasing Act for oil and gas revenues from the Arctic National Wildlife Refuge. The State of Alaska has not met the heavy burden of persuasion with respect to the argument that those Property Clause powers were terminated by the section in the Statehood Act amending the MLA to include Alaska in the Act's revenue distribution formula. We can find no support in the Alaska Statehood Act for the proposition that the MLA was incorporated into the compact between the federal government and the State. In fact, opposite the proposition, we find other instances in which Congress has amended the MLA in a manner which adversely affected the State's interests.

The Solicitor's Opinion is printed in the Appendix of this Report.

TITLE VII—APPROVAL OF CONVEYANCE IN ALASKA NATIONAL WILDLIFE REFUGE

Section 701 provides that subsection 1302(h) of ANILCA is amended by adding a new paragraph to provide that nothing in ANILCA or any other provision of law shall be construed as authorizing the Secretary to convey, by exchange or otherwise, lands or interest in lands within the Coastal Plain of the Arctic National Wildlife Refuge (other than land validly selected prior to July 28, 1987), without prior approval by Act of Congress.

The Committee has reported identical language as a freestanding bill, S. 1493. The report accompanying that legislation, S. Rep. No. 100-296, is hereby incorporated by reference.

TITLE VIII—ADDITION TO THE ARCTIC NATIONAL WILDLIFE REFUGE

Section 801 provides that the lands described in Public Land Order 6607 of July 8, 1985 (50 Fed. Reg. 130), comprising approximately three hundred and twenty-five thousand acres, are included as part of the Arctic National Wildlife Refuge to be subject to and administered in accordance with the provisions of section 303(2) and 304 of ANILCA and other applicable statutes.

TITLE IX—ENERGY PLAN

Paragraph 901(a)(1) provides that not later than fifteen months after the date of enactment of the Act, the Secretary of Energy, with the advice and assistance of the Chairman of the Council on Environmental Quality, the Secretary of the Interior and the National Academy of Sciences, shall prepare and transmit to the Congress an energy plan which shall include, among other things, a proposed statement of national energy policy objectives.

Paragraph 901(a)(2) provides that the plan shall focus on the total projected demand in the United States for energy and for crude oil and petroleum products, in particular, over the estimated period of potential production from the Coastal Plain (approximately through the year 2030). The plan also shall include a range of likely scenarios for crude oil and petroleum products demand and a description of alternative sources of supply, including imported crude oil and petroleum products, likely to be available to meet such demand.

Paragraph 901(a)(3) sets forth information to be included in the plan. The provisions are self-explanatory.

Subsection 901(b) provides that the range of demand scenarios under subsection (a) shall identify and evaluate all potential and realistic alternative energy resources available to meet the range of demand scenarios on a consistent basis. The provision lists items to be included as alternative energy resources and is self-explanatory.

Paragraph 901(c)(1) provides that the energy plan shall include a ranking of all potential and realistic alternatives identified under subsection (b). The plan also shall provide recommendations to the Congress concerning the implementation of such alternative or al-

ternatives. The remaining provisions in the paragraph are self-explanatory.

Paragraph 901(c)(2) provides that in developing such recommendations, the Secretary of Energy shall give special considerations to other specified measures. The provisions are self-explanatory.

Subsection 902(a) provides that the Secretary of the Interior, to accompany the energy plan required under Section 901, shall prepare a study of present and projected oil and gas development in the Arctic region of Alaska, both onshore and offshore, excluding all portions of the Arctic National Wildlife Refuge which are: (1) not held in private ownership; or (2) contained in the Coastal Plain study area.

Subsection 902(b) provides that the study shall include an identification in certain specified areas. The provisions are self-explanatory.

Subsection 902(c) provides that the study shall include the projected quantities of oil or natural gas that are or may be recoverable from the Arctic region under a range of world oil prices and economic conditions.

Subsection 902(d) provides that the study shall include an examination of the infrastructure needed, beyond what is already in place at Prudhoe Bay, in the trans-Alaska pipeline and the port and marine facilities at Valdez, to develop the oil and gas resources of the Arctic region under a range of development scenarios.

Subsection 903(a) provides for transmittal of the energy plan and other studies to the Congress. The provisions are self-explanatory.

Subsection 903(b) provides that the Secretary of the Interior shall not conduct the first lease sales authorized under Title III and section 304 of the Act until twenty-one months after the date of enactment of the Act to permit adequate time for review and for action, if any, by the Congress on implementing the energy plan and studies authorized and directed under this Title.

Subsection 903(c) provides that the Secretary of the Interior is authorized and directed to proceed with the development and implementation of final regulations to carry out the purposes of this Act, in accordance with the provisions of this Act, during the twenty-one month period required to develop and review the energy plan and studies required by this Title.

Subsection 904(a) provides that pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974, the Secretary of Energy is authorized and directed to establish an Energy Research and Demonstration Grant Program to promote and advance research, development, and commercialization in the areas of energy conservation and alternative energy sources. For the purposes of this provision, research on "energy conservation" is to include basic research on new methods to recover more petroleum or natural gas from existing fields. The energy research and demonstration grant program shall be funded out of revenues received under section 302(e).

Subsection 904(b) provides that the Energy Research and Demonstration Grant Program authorized by this section shall have as its major purpose the development of energy conservation and alternative energy technologies which have the capacity to significantly

reduce the nation's growing reliance on imported oil by the end of the century.

TITLE X—EXPORT PROHIBITION ON CRUDE OIL

Section 1001 amends Section 28(u) of the Mineral Leasing Act by revising the last sentence by striking "concurrent resolution" and inserting in lieu thereof "joint resolution", redesignating existing subsection "u" as "u(1)", and adding a new paragraph which provides that the provisions of paragraph (1) shall apply to any domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to the Arctic Coastal Plain Competitive Oil and Gas Leasing Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

March 14, 1988

Honorable J. Bennett Johnston, Jr.
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The Congressional Budget Office has prepared the attached cost estimate for the Arctic Coastal Plain Competitive Oil and Gas Leasing Act.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

James L. Blum
Acting Director

cc: Honorable James A. McClure
Ranking Minority Member

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

March 14, 1988

1. BILL NUMBER: Not yet assigned.

2. BILL TITLE: The Arctic Coastal Plain Competitive Oil and Gas Leasing Act

3. BILL STATUS:

As ordered reported by the Senate Committee on Energy and Natural Resources on February 25, 1988.

4. BILL PURPOSE:

The bill would authorize a competitive oil and gas leasing program to be carried out by the Department of the Interior (DOI) on all areas of the coastal plain of the Arctic National Wildlife Refuge (ANWR). The bill would require the DOI to include terms and conditions in leases to ensure protection of the environment of the coastal plain and would allow the DOI to remove any areas from leasing consideration that are found to be particularly sensitive to environmental damage.

All receipts from bonus bids, rents, and royalties would be split evenly between the federal government and the State of Alaska. Most of the federal share of receipts from leases on ANWR would be allocated to the Land and Water Conservation Fund (LWCF), the Migratory Bird Conservation Fund, and the Department of Energy (DOE).

The bill stipulates that if any judicial action is brought against the federal government by Alaska challenging its share of receipts from leasing on the coastal plain, no lease sale would be allowed until a final nonappealable decision has been issued. If the receipt-sharing provisions of the bill are held invalid, the remainder of this bill would be void.

Under the provisions of Title V, a not-for-profit corporate entity to be known as the Coastal Plain Liability and Reclamation Fund would be established. The fund would be available for reclamation activities and to compensate individuals adversely affected by development.

DOE would be required to prepare a national energy plan, including a projection of the nation's demand for energy resources, alternatives for meeting this demand, and estimates of the development potential of ANWR. Finally, the bill would authorize the creation of an energy research and demonstration grant program.

5. ESTIMATED COSTS TO THE FEDERAL GOVERNMENT:

(by fiscal year in millions of dollars)

	1989	1990	1991	1992	1993
DIRECT SPENDING EFFECTS:					
Offsetting Receipts (Function 300)					
Estimated Budget Authority	---	---	-1,600	-1	-1,000
Estimated Outlays	---	---	-1,600	-1	-1,000
Payments to Alaska (Function 800)					
Estimated Budget Authority	---	---	800	*	500
Estimated Outlays	---	---	800	*	500
Other Direct Spending (Function 300)					
Estimated Budget Authority	---	---	240	502	337
Estimated Outlays	---	---	168	277	347
Total Direct Spending					
Estimated Budget Authority	---	---	-560	502	-163
Estimated Outlays	---	---	-632	277	-153
REQUIRING APPROPRIATIONS ACTION:					
Administrative Costs					
Estimated Authorization Level	4	1	4	2	2
Estimated Outlays	3	2	3	2	2
Title IX Grants (Function 270)					
Estimated Authorization Level	---	---	80	*	50
Estimated Outlays	---	---	20	52	21
Total Amounts Requiring Appropriations					
Estimated Authorization Level	4	1	84	2	52
Estimated Outlays	3	2	23	54	23

* Less than $500,000.

Basis of Estimate:

For purposes of this estimate, CBO assumes that this bill would be enacted by September 1988. Outlays have been estimated on the basis of spending patterns for similar programs and from information obtained from the DOI.

Title III specifies the terms and conditions for issuing and monitoring leases on the coastal plain. The DOI would have nine months after the bill's enactment to promulgate regulations for the leasing program. The first lease sale would be limited to no more than 300,000 acres and would be held within

18 months of the issuance of regulations (27 months after the bill's enactment). The second lease sale would occur within three years of the initial sale with subsequent sales occurring every two years thereafter.

For the purpose of promulgating leasing regulations, Title III would deem environmental impact statements already prepared by the DOI as sufficient to meet the requirements of the National Environmental Policy Act. The Secretary would be authorized to exclude from leasing any areas of the coastal plain determined to be of particular environmental sensitivity.

CBO estimates that the first lease sale would occur in fiscal year 1991. To derive receipt estimates, CBO has assumed that legal challenges would not prevent the DOI from issuing regulations and holding a lease sale and that the Congress would not act to prevent leasing as a result of the DOE energy plan authorized in Title IX. If Alaska brings suit against the federal government challenging the receipt-sharing provisions, it is unlikely that a lease sale would occur by 1991.

Based on an analysis by the DOI of potential tract values, we estimate that competitive bidding in the first lease sale would yield bonuses totaling approximately $1.6 billion. Rentals in 1992 from leases issued in the first sale would total approximately $1 million. The second lease sale would occur in fiscal year 1993 and would bring in an additional $1 billion in bonus bids. Net of payments to Alaska, federal receipts would increase by $800 million in 1991 and by $500 million in 1993.

Royalties, which would begin only after oil production has actually begun, are unlikely to be received before 1999.

Title IV would direct the Secretary of the Interior to administer the provisions of the bill through regulations, lease terms and other instruments to ensure that oil and gas-related activities have no significant impact on the environment or on fish and wildlife. Towards this end, the bill would require site-specific analysis and other measures to monitor and mitigate environmental effects. Up-front costs to promulgate regulations, prepare reports, and develop lease terms would be incurred beginning in fiscal year 1989. CBO estimates that the Bureau of Land Management and the U.S. Fish and Wildlife Service would require additional funding of about $3 million over fiscal years 1989 and 1990. These agencies would incur additional expenses through 1992 for siting and facility coordination plans as well as for oversight and basic environmental research required under Section 406. CBO estimates that these activities would cost about $7 million through fiscal year 1993. Expenditures for ongoing monitoring and enforcement activities are not expected to exceed $500,000 a year beginning in 1993.

Title V would establish liability and reclamation standards for federal lands affected by oil and gas-related activities. This title would also provide for the creation of the coastal plain liability and reclamation fund, which would receive all proceeds from a new $.05 per barrel fee on product entering the Trans-Alaska Pipeline System (TAPS) as well as interest earned on fund investments and any amounts recovered from responsible parties. Because this fund would be a not-for-profit corporation established and administered by a

nonfederal entity, neither the collection nor spending of fund receipts would have any impact on the federal budget. Amounts made available to the DOI for reclamation or environmental research and monitoring would offset additional agency spending requirements and therefore would have no budget impact.

Title VI would provide that proceeds from ANWR-related transactions such as competitive bids, sales, royalties and rents be distributed evenly between the U.S. government and the State of Alaska. Alaska's share of gross receipts would be disbursed to the state through a permanent appropriation for payments under the Minerals Leasing Act in the year collected.

Of the federal share, 40 percent would be credited to a special account in the LWCF. In the year following such credit, an additional amount equal to the average appropriation from the LWCF over the five years previous to the ANWR credit would also be deposited to the new special fund. In the year following deposit of any ANWR proceeds, all of the funds credited to the special fund would be available without further appropriation for federal and state land acquisition programs. Based on the CBO baseline for land acquisition programs, this provision would result in new budget authority of about $502 million in fiscal year 1992. About 60 percent of this amount would be derived from 1991 ANWR receipts. In 1993, new budget authority for the special account would fall to about $187 million.

An additional 30 percent of the federal share would be credited to the Migratory Bird Conservation Fund, from which it would be immediately available for wetlands acquisition under the permanent appropriation created by the Migratory Bird Conservation Act (16 U.S.C. 718(d)). CBO estimates that this provision would result in additional direct spending authority of about $240 million in 1991 and $150 million in 1993.

Finally, 10 percent of the federal share would be used to fund DOE activities covered under Title IX. Such amounts would be subject to appropriation.

Title VII would prohibit the Secretary of the Interior from conveying or exchanging federal lands in ANWR without the prior approval of the Congress. By prohibiting the exchange of ANWR land, this title ensures that any receipts generated from leasing activities would accrue to the federal government rather than to native corporations.

Title IX would require DOE to prepare an energy plan within 15 months of the bill's enactment. The plan would include a proposed statement of national energy policy, aggregate U.S. energy and oil demand projections, estimates of potential energy supplies and economically recoverable reserves on the coastal plain, and an identification of alternative energy sources. Also, the DOI would be required to study the development potential of ANWR. No lease sales would be allowed until 21 months of the bill's enactment in order to give the Congress six months to react to the findings of these studies.

Based on information provided by the DOE, CBO estimates that the plans and studies authorized in this title would cost about $1.5 million over the two-year period after enactment.

In addition, Title IX would establish an alternative energy grant program to be funded with 10 percent of the federal share of ANWR-derived receipts. Assuming the amounts dedicated to the grant program are fully appropriated as they become available, the DOE would spend about $20 million in fiscal year 1991 and about $93 million over the 1991-1993 period for this purpose.

6. ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS:

The State of Alaska would share 50 percent of all bonus bids, rentals and royalties realized from enactment of this bill. As a result, CBO estimates that payments to Alaska would increase by approximately $1.3 billion over the 1991-1993 period.

7. ESTIMATE COMPARISON: None.

8. PREVIOUS CBO ESTIMATE: None.

9. ESTIMATE PREPARED BY: Theresa Gullo and Deb Reis (226-2860)

10. ESTIMATE APPROVED BY:

for James L. Blum
Assistant Director
for Budget Analysis

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out this measure. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2214, as reported.

Executive Communications

The Secretary of the Interior testified before the Committee on June 2, 1987 regarding the 1002 report and his recommendations contained therein. A copy of that testimony is included below:

Assistant Secretary Horn testified before the Committee on S. 1217 on October 13, 1987. A copy of that testimony is also set forth below.

The Committee requested the views of the Department of the Interior and the Environmental Protection Agency on S. 1217 on September 28, 1987. At the time this report was filed, those views had not been received.

STATEMENT OF DONALD PAUL HODEL, SECRETARY OF THE INTERIOR, BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, CONCERNING THE ARCTIC NATIONAL WILDLIFE REFUGE COASTAL PLAIN RESOURCE ASSESSMENT REPORT TO CONGRESS.

JUNE 2, 1987

Mr. Chairman, I am Donald Paul Hodel, Secretary of the Interior. I appreciate the opportunity to appear today to discuss the report to Congress concerning the coastal plain of Alaska's Arctic National Wildlife Refuge.

As you know, section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) directed the Secretary of the Interior to:

° conduct biological and geological studies of the 1.5-million-acre coastal plain portion of the Arctic Refuge (the "1002 area"), located in northeast Alaska:

° report the results of those studies to Congress; and

° recommend to Congress whether the area should be made available for oil and gas exploration and development.

During deliberations in 1977-80 about management of lands in Alaska, Congress expressed particular interest in the possibility of significant oil and gas deposits in the 1002 area and in the effect of development on the area's fish, wildlife, and wilderness resources. The Congress set forth a deliberate process for the Department of the Interior to study, analyze and report on all of these resources and to provide a recommendation on future management of the 1002 area.

On April 20th, I made public the final report and my preferred alternative recommendation for the 1002 area--that is, an orderly and environmentally sound program for leasing the entire 1002 area.

The results of the geological studies of the 1002 area have led industry and government geologists to conclude that the 1002 area is the Nation's best single opportunity to increase significantly domestic oil production over the next 40 years. It is rated by geologists as the most outstanding petroleum exploration target in the onshore United States. Data from the Prudhoe Bay area and in the Canadian Beaufort Sea and Mackenzie Delta, combined with promising seismic data gathered on the 1002 area, indicate geologic conditions exceptionally favorable for discovery of one or more supergiant fields (larger than 500 million barrels).

The area could contain potentially recoverable oil resources of more than 9.2 billion barrels, an amount nearly equal to the Prudhoe Bay oil field, which currently provides almost one-fifth of U.S. domestic production. If this estimate proves to be correct, development of the 1002 area resources would add significantly to domestic reserves.

Production from the 1002 area could begin at a time when a decline in production is expected at Prudhoe Bay. Prudhoe Bay production is expected to peak this year and will have declined significantly by the year 2000. Production of the 1002 area's potential resources could substantially offset this significant and certain decline.

The proximity of the 1002 area to Prudhoe Bay and the Trans-Alaska Pipeline System also is an important factor. The Trans-Alaska Pipeline System provides a ready means for bringing 1002 area oil to U.S. markets, and would prolong the

useful life of the pipeline system and permit continued production from North Slope fields which otherwise would be uneconomical.

Based on the mean conditional recoverable oil estimate of 3.2 billion barrels, 1002 area production by the year 2005 could provide 4 percent of total U.S. demand and 8 percent of U.S. production (about 660,000 barrels per day); and reduce imports by nearly 9 percent. This could provide net national economic benefits of $79.4 billion, including Federal revenues of $38.0 billion.

If the 5 percent chance of more than 9.2 billion barrels of recoverable oil became a reality, this could yield production of more than 1.5 million barrels per day. Estimates of net national economic benefits based on 9.2 billion barrels of oil production, and other economic assumptions, are as high as $325 billion.

This Nation currently imports more than one third of its domestic oil needs, and the National Petroleum Council predicts that in the year 2000 the U.S. will import between 52 to 68 percent of its demand. Oil production from the 1002 area would reduce not only the need for imported oil but also the amount of foreign exchange required to pay for petroleum imports, bringing about a more favorable balance of trade. In 1984, the gross cost of importing crude oil and refined petroleum products was more than $59 billion, an amount approximately equal to 50 percent of the U.S. trade deficit. The cost of imports in 1986 was $28 billion as a result of lower oil prices. However, the Department of Energy has predicted that by 1995, oil imports may cost the equivalent of $80 billion.

America's growing reliance on imported oil could have potentially serious implications for our national security as well.

Production from the 1002 area would reduce U.S. reliance on oil from the unstable Persian Gulf region, would reduce our vulnerability to disruptions in the world oil market, and would contribute to our national security.

Because the 1002 area is the best domestic opportunity to help reverse or reduce the decline in U.S. oil reserves and production, the public interest demands that the area be made available for oil and gas leasing, with exploration and development conducted in an orderly and sensitive manner to avoid unnecessary adverse effects on the environment.

Our ability to conduct oil exploration development, and production in a careful and environmentally sound manner is a major factor leading to my conclusion that full leasing is the preferred alternative.

Environmental Consequences of Development

The 1002 area provides a variety of outstanding arctic habitats which support fish and wildlife species of national and international significance, including muskoxen, snow geese, and the Porcupine caribou herd--the sixth largest caribou herd in North America.

More than 50 separate biological studies were conducted in the 1002 area since 1980. These data were synthesized in the final report and legislative environmental impact statement (final report/LEIS) and used to provide the best assessment of the potential environmental consequences of oil development in the 1002 area.

Potential impacts were assessed at three stages: exploration, development drilling, and production. The impact analyses predicted that exploration and development drilling activities would generate only minor or negligible

effects on all wildlife resources on the 1002 area. Therefore, the focus of potential impacts is on production and assumes the discovery of 3.2 billion barrels of producible oil (mean conditional recoverable estimate). The impact analyses concluded that in fact more than 9.2 billion barrels could be produced with no significant additional environmental impacts than would result from production of 3.2 billion barrels.

Production is expected to directly affect only 12,650 acres or 0.8 percent of the 1002 area. The consequences of this level of production on important species such as brown bears, snow geese, wolves, and moose, as well as the Central Arctic caribou herd, are expected to be negligible, minor, or moderate.

The only potential "major" effects would result from oil production and are limited to the Porcupine caribou herd and the reintroduced muskox herd. "Major biological effects," for purposes of the analysis, were defined as: "widespread, long-term change in habitat availability or quality which would likely modify natural abundance or distribution of species. Modification will persist at least as long as modifying influences exist."

Porcupine and Central Arctic Caribou Herds

Although comparing the effects of Prudhoe Bay development on the Central Arctic caribou herd with the potential effects of similar activities in the 1002 area on the Porcupine caribou herd must be done with caution, experiences at Prudhoe Bay provide a strong measure of assurance that caribou can coexist successfully with oil development.

Substantial empirical evidence has been gathered over the years regarding the interaction of the Central Arctic herd with the Prudhoe Bay complex. Although that herd has had a considerable portion of its range, including calving areas, occupied by oil-production facilities, the herd has prospered and, in fact, tripled in size since oil activities began in the area in 1968.

The fact that billions of barrels of oil have been produced and transported from Prudhoe Bay while the area's fish and wildlife resources continue to thrive indicates that effective environmental techniques and technologies are available for use in the 1002 area, a short distance to the east.

Biological studies have found that the Porcupine caribou herd calves in different areas each year--throughout the 1002 area, elsewhere in the Arctic Refuge, and in Canada--on an area totaling approximately 8.9 million acres. Moreover, the Porcupine caribou herd is present in the 1002 area for calving, postcalving, and insect-relief activities only 6 to 8 weeks annually, primarily from mid-May to mid-July.

The Porcupine caribou herd has shown some preference for calving on the Arctic Refuge coastal plain, including the upper Jago River area (84,000 acres or 5.4 percent of the 1002 area) where portions of the herd have calved in approximately half of the last 15 years. Thus, a potential "major" consequence would be the displacement of those portions of the herd seeking to calve in the upper Jago River area. This would be the case only if the area were the site of a major producing oil field. It is unlikely, though possible, that such displacement would result in any appreciable decline in herd size.

It is important to note that this issue of displacement is a primary matter of concern regarding the Porcupine caribou herd. Although it is not known whether development, including roads and oil pipelines, could affect the migratory habits of the herd, it already encounters the Dempster Highway in Canada during its annual migrations and crosses the road with no measured adverse effects. Similarly, other caribou herds in Alaska and Canada (i.e., Nelchina, Fortymile, and Central Arctic) routinely cross highway and road systems. Both the Central Arctic and Nelchina herds also routinely cross the Trans-Alaska Pipeline with no adverse effects. This pattern of successful interaction with roads and pipelines during migration is expected for the Porcupine caribou herd.

In addition, the Porcupine caribou herd should not be affected adversely during the short-term period (6 to 10 days) that they use 1002 area habitats for insect-relief following calving. The ability of the herd to move to insect-relief areas along the coast is unlikely to be significantly affected by pipeline/road corridors crossing the 1002 area.

Furthermore, the long period of time required to bring commercial fields into production would provide ample opportunity to develop any additional mitigation measures as may be needed to address unexpected impacts.

Biological predictions necessarily are cautious. In the 1972 environmental evaluation for the Trans-Alaska Pipeline System, the following possible effects on the Central Arctic herd were predicted: "The combined barrier effects of the highway and pipeline might very well reduce the number of animals using the winter range east of the highway." As events have demonstrated, however, these concerns subsequently were resolved completely with environmentally sensitive techniques and technologies.

Biological predictions in the final report/LEIS for the 1002 area naturally are cautious as well.

Muskoxen

Muskoxen disappeared from the 1002 area at the turn of the century as a result of overhunting. Those that now occupy the area are the result of a successful reintroduction program. The potential effects of oil and gas activities on the area's muskoxen also are unknown, although biologists predict that "major" effects could be: (1) substantial displacement from currently used habitat and (2) a slowing of the herd's growth rate, as distinguished from a diminution in herd size.

Subsistence

With regard to subsistence, potential effects of 1002 area oil production fall into two categories: effects on the village of Kaktovik and effects on villages far removed from the 1002 area. In the case of Kaktovik, it is possible that a "major" restriction of subsistence activities could occur. These consequences would not likely result from reduced wildlife resources but rather could result from the physical changes proximate to Kaktovik which could interfere with traditional activities. Moreover, distribution patterns of wildlife resources likely to be affected by oil production would necessitate some alterations in traditional subsistence patterns.

We are committed to working with the village of Kaktovik, the North Slope Borough, and the State of Alaska to minimize the effects of oil activities on the subsistence activities of Kaktovik residents.

Subsistence effects on villages outside the 1002 area, including those in Canada, are expected to be minimal. Because it is most probable that oil activities will not create adverse population changes in the Porcupine caribou herd, other villages which annually use these caribou resources should not be affected. Migratory patterns of the herd also are likely to be unaffected by oil activities. Accordingly, the herd is expected to adhere to its traditional patterns which make it available annually to these villages.

We recognize the importance of ensuring the continued customary and traditional use of this internationally shared resource, and we are committed to efforts that will conserve the Porcupine caribou herd for future generations of people who rely on this resource for nutritional, cultural, and other essential needs. The Porcupine caribou agreement we are pursuing with Canada will enhance international cooperation and coordination on management of the Porcupine caribou herd so that both countries can effectively secure the availability of this resource.

Environmental Safeguards and the Leasing Process

The potential effects predicted were considered fully throughout the final report/LEIS and in the development of my recommendations. Site-specific measures can be taken to avoid unnecessary adverse effects on the environment from oil production in the 1002 area.

Although the exact process would depend upon the leasing program established by the Congress, steps which might be included in such a leasing program are:

° Compliance with the National Environmental Policy Act (NEPA) for each lease sale, each exploration plan, and each operator/lessee development and production plan.

° Compliance by each operator/lessee, or the Department of the Interior, as appropriate with other such laws as the Clean Air Act, Clean Water Act, Endangered Species Act, National Historic Preservation Act, and ANILCA. The lease also would be governed by Departmental regulations.

° The Secretary should be given authority to establish requirements for oil and gas operations that allow them to proceed in an economically reasonable manner but avoid unnecessary adverse effects on the 1002 area's wildlife, habitat, and environment.

° Competitive leasing authority should be granted to the Secretary to delegate as he believes proper and should be similar to that used to lease the National Petroleum Reserve in Alaska. The Secretary should also have authority to decide such issues as unitization, drainage, diligence, and lease terms and management.

° The Secretary should be granted authority to suspend or terminate any leases in the 1002 area at any time, in the same manner prescribed by the Outer Continental Shelf Lands Act as amended. If leases are terminated for reasons beyond the control of the operators/lessees, operators/lessees should be compensated in a manner similar to that prescribed by the Outer Continental Shelf Lands Act as amended.

° The Secretary should have the authority to require lessees to restore the leased tract to protect environmental values to the extent reasonably possible and desirable.

° The Secretary should be granted authority, which supersedes ANILCA Title XI, to grant rights-of-way and easements across 1002 area lands for oil-and-

gas-related activities and facilities. This authority must allow the Secretary to require siting and modifications of proposed facilities to avoid unnecessary duplication of roads and pipelines.

° All geological and geophysical data acquired with respect to the 1002 area should be shared, upon request, with the Secretary, who should ensure its confidentiality.

In light of the extensive environmental analysis done to prepare the final report/LEIS I recommend that it be adopted statutorily as the programmatic EIS for a leasing program for the 1002 area.

Because Section 1002(i) of ANILCA withdrew the 1002 area from operation of the mineral leasing laws, and Section 1003 prohibited "leasing or other development leading to the production of oil and gas" in the area "until authorized by an Act of Congress," specific legislation must be enacted to implement these recommendations.

In recommending that Congress enact legislation to open the 1002 area for oil and gas leasing, I also recommend that Congress enact legislation to open the Kaktovik Inupiat Corporation (KIC)/Arctic Slope Regional Corporation (ASRC) lands within the Arctic Refuge to similar activities. The ASRC's right to develop and produce any oil and gas which may underlie the KIC/ASRC lands within the Arctic Refuge is, by virtue of the 1983 Chandler Lake Exchange Agreement, expressly contingent upon Congressional authorization of oil and gas leasing or development and production within the 1002 area, or on the KIC/ASRC lands specifically.

Consultations with Canada

Before I conclude my remarks, I'd like to address the issue of consultations with the Canadian government. Once the draft report/LEIS was made available to the Congress and the American public, it was also made available to Canada. We feel it was appropriate to then enter into formal consultations with them regarding the draft recommendation. However, coordination with Canada regarding the Porcupine caribou herd has been ongoing since the late 1970's

In conducting biological studies for the 1002 area related to the Porcupine caribou herd, the U.S. Fish and Wildlife Service worked closely with biologists from the State of Alaska and the Canadian Wildlife Service. The Canadian Wildlife Service and its Yukon Wildlife Branch conducted independent studies of the Porcupine caribou herd during 1978-81 relative to potential oil and gas development in Canada's Yukon and Northwest Territories. Prior to assessing potential environmental consequences of oil and gas development in the 1002 area, the Fish and Wildlife Service conducted a Caribou Impact Analysis Workshop in which Canadian biologists participated at our invitation.

In addition to these technical consultations, representatives of the Fish and Wildlife Service and Canadian Wildlife Service for the past several years have been negotiating a separate Porcupine caribou herd agreement. The final draft agreement, now being reviewed within the Department, calls for both countries to take appropriate steps to ensure international cooperation and coordination of actions that might affect the Porcupine caribou herd in order to conserve the species and its habitat. The agreement would establish an advisory board to make recommendations and provide advice to each government to assist in

this management effort. Such an agreement will enhance the consultative mechanisms between Canada and the United States on future activities that may be conducted on either side of the border.

When the draft 1002(h) report was made available to the Congress and public for review in November 1986, the Assistant Secretary for Fish and Wildlife and Parks invited the Government of Canada to comment on the draft. To date, three consultation sessions have been held, two in Ottawa and one in Washington, D.C. These sessions provided both countries the opportunity to discuss the biological and geological data upon which this final report/ LEIS is based and to address the assessment of impacts on the Porcupine caribou herd and other wildlife resources by possible development activities. Consultations will continue upon request by either country, and the Department of the Interior looks forward to future opportunities to discuss with Canada resource issues of mutual concern.

Conclusion

In conclusion, given the proven record that potential environmental effects of oil production can be avoided substantially, and given America's need for additional domestic energy resources, it is essential that the Congress enact legislation to authorize the Secretary of the Interior to conduct an orderly oil and gas leasing program for the entire 1002 area.

Authority to lease the 1002 area is needed now in order to determine whether economically recoverable reserves exist and to produce those resources for America's future. Even if exploration resulted in commercial finds today, it could be as long as 10 to 15 years before those resources would be brought into production. If we delay, our inaction would serve to blindfold America to its ability to increase domestic production. It also would send a dangerous signal to the world oil market that America is not willing to help itself avoid increased dependence on the Middle East's substantial concentration of the world oil supply.

This Nation has proven that it need not choose between an improving environment on one hand, and exploration and development of the energy resources required for growth and survival on the other. We can have both. It is my firm belief that an orderly oil and gas leasing program for the entire 1002 area can be conducted in concert with America's environmental goals.

This concludes my statement, Mr. Chairman. I would be pleased to answer any questions you or any of the other Committee members might have.

TESTIMONY OF WILLIAM P. HORN, ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR, AND JAMES E. CASON, DEPUTY ASSISTANT SECRETARY FOR LAND AND MINERALS MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, REGARDING S. 1217, OIL LEASING AT THE ARCTIC NATIONAL WILDLIFE REFUGE

October 13, 1987

Mr. Chairman, I am William P. Horn, Assistant Secretary for Fish and Wildlife and Parks of the Department of the Interior. With me today is James E. Cason, Deputy Assistant Secretary for Land and Minerals Management of the Department of the Interior.

On behalf of Secretary Hodel, I would like to express our appreciation to the Committee for your prompt consideration of this issue. We believe timely action by the Congress to permit oil and gas leasing on the Coastal Plain, with appropriate environmental protection measures, is essential. ANWR is our single best opportunity to increase significantly the Nation's oil production in the foreseeable future. As you know, this is a unique area. It has the potential for containing the largest undiscovered oil and gas reserves in the United States. The mean estimate of in-place resources for the Coastal Plain is 13.8 billion barrels of oil and 31.8 trillion cubic feet of gas. As we have previously testified, and as the Secretary's report explained in detail, we believe leasing can be accomplished consistent with the wildlife values of the refuge.

We strongly support the intent of S. 1217. While we would recommend several adjustments to the leasing program contemplated by the bill, we strongly endorse the approach contained in S. 1217 of providing authority for both exploration and production. Because of the high costs of conducting oil activities in the Arctic -- typically in the

tens of millions of dollars -- there is no reason to expect that private interests would invest the resources needed for a full exploratory program on the Coastal Plain without assurances that they would be permitted to develop any discoveries that might be made.

It has been suggested that Congress should authorize an exploration-only program, or a two-phase program requiring additional decisions before permitting development of any discovered oil resources after the conclusion of an exploratory program. We believe these kinds of approaches would be extraordinarily costly to the taxpayer and ultimately unworkable. Furthermore, the alternative of a Federally-funded exploratory program would require substantial financial outlays -- we estimate a Federal exploratory drilling program could approach $1 billion, depending on the size of the program -- at a time when the Congress and the Administration are making major efforts to reduce expenditures.

History suggests that government agencies do not conduct an efficient and timely exploratory program. Government agencies are simply not oriented towards large, high-risk programs of this nature. We have a relatively small group of petroleum geologists, whose expertise is in resource assessment rather than in searching for oil. The basic structure of the Federal Government provides few, if any, rewards for risk-taking, and penalizes failure. We must remember that even in areas where oil is ultimately discovered, many dry holes are usually drilled before deposits are found. The odds are against any drilling effort making an early "strike" on a major deposit. The oil companies, by comparison, have a relatively large number of personnel experienced at searching for oil. Their

entire structure is organized towards risk-taking. And the existence of many companies insures a wide range of prospects and geologic concepts are likely to be pursued.

Conversely, the nature of the governmental decision-making process is likely to provide a built-in bias towards early abandonment of a drilling program if there are not immediately positive results. For example, it is not difficult to visualize pressures from both the Administration and Congress for reduction or elimination of appropriations for such an expensive drilling program if early results are negative and the budget deficit continues to be a major problem. Failure or extensive delay in a government exploratory program could not only waste major amounts of taxpayer funds, but deprive the nation of the benefits that would result from a significant oil discovery should major deposits of oil in the coastal plain go undiscovered.

I would also point out that such an approach would deprive us of significant revenues that could reasonably be expected to accrue from bonus bidding on leases allowing exploration and production of any discovered reserves. I believe it is not unreasonable to expect receipts in the range of $2 billion - $4 billion from lease sales, even if no oil is discovered. However, if a government drilling program does not find oil in a tract, the lease and bonus value of that and possibly neighboring tracts plummet. We believe the disadvantages that would accompany an exploratory program would not justify transferring the risks accompanying the search for oil from the oil companies to the taxpayers, or forgoing bonus revenues of this magnitude, which accrue to the Federal Government whether or not oil is actually found.

Therefore, we strongly urge the Committee to adopt the full leasing approach of S. 1217. We believe that, coupled with provisions assuring appropriate environmental protection, this is the best approach for the area. We do, however, believe that S. 1217 can be improved.

First, we believe that the Congress should enact stand-alone authority for oil and gas activities on the coastal plain rather than add provisions to the Mineral Leasing Act of 1920 or the OCS Lands Act. As I mentioned above, this is an area of vast mineral potential and important wildlife values. It has been recognized by the Congress, in the Alaska National Interest Conservation Lands Act, as an area deserving special attention. Because of the environmental and energy considerations unique to ANWR, we believe it is important that Congress provide guidance expressly tailored to the area. Any opening legislation should be carefully crafted to achieve the dual goals of expeditious exploration and development of the oil and gas resources of the coastal plain and protection of its fish and wildlife resources. We stand ready to assist the Committee in drafting this kind of opening legislation.

Along these lines, we recommend that this new authority include a clear standard for protection of the fish and wildlife of the Coastal Plain, and their habitat. We read S. 1217 as establishing two possibly conflicting standards. Section 4 requires the Secretary to insure that oil and gas activities are conducted so as "to achieve the reasonable protection" of fish and wildlife and other resources, and to mitigate "reasonably foreseeable significant adverse effects" on those resources.

We believe that the best standard is that proposed by the Secretary in the 1002 report, that of "no unnecessary adverse effects." In developing our 1002 report, we have defined unnecessary adverse effects to mean "those impacts likely to cause harm to fish and wildlife, their habitats, or the environment that can be reasonably be avoided by the application of appropriate technology and engineering procedures, timing, and siting." With this standard and the type of mitigation stipulations outlined in the Secretary's report, oil leasing and production can be accomplished consistent with the natural resources of the area.

The 29 mitigation measures contained in the 1002 report are attached to my testimony. It should be noted that these are generalized measures. We would propose site-specific, detailed stipulations for the various oil and gas related activities in accordance with these principles during the NEPA process for the leasing activity in question. The operational stipulations for the KIC/ASRC exchange contract, which has previously been submitted to the Committee, contain at great length more extensive and detailed, but still generic, environmental protection stipulations which we would propose to apply to any leasing activities on the Coastal Plain.

Because much has been made of possible conflicts over the use and availability of water and gravel, I would like to use these as examples of how the related mitigation measures can be used to avoid or minimize unnecessary adverse effects. We would consider prohibiting the removal of gravel from active stream channels on major fish-bearing rivers and requiring site-specific approval for any gravel removal activities. To protect water availability for fish

and wildlife, we would monitor water levels and examine prohibiting winter water removal from fish-bearing waters, or from springs and tributaries feeding such waters, where appropriate. Furthermore, we would also look at prohibiting water removal at any time from fish-bearing waters if the result would be water levels that would not easily pass fish or that would damage breeding and rearing habitat.

There would be no surface occupancy in the Sadlerochit Spring special area to protect the aquatic habitat essential for fish overwintering.

We might permit gravel removal only on a site-specific approval basis within a specified distance of the high water mark on specified water courses to protect riparian habitats and water quality. Requirements for consolidation and no duplication of facilities will also reduce gravel and water needs.

We have also suggested in the report that off-stream reservoirs be created in conjunction with gravel extraction operations to promote additional water sources. Similar stipulations in the regulations used to govern the seismic exploration program on the Coastal Plain, and the Chevron drilling operations on the KIC/ASRC lands could also be utilized, including requirements for no significant alterations of banks of streams, rivers, or lakes, and no use of explosives within, beneath, on or in close proximity to fish-bearing waters.

We would also look at how operations could be conducted in a manner that does not unnecessarily impede the passage of fish, disrupt fish spawning, overwintering or nursery areas, or block, change, or cause significant siltation or

pollution of streams, rivers, lakes and ponds. Of course, rehabilitation plans would be required.

In addition to inclusion of our "no unnecessary adverse effect" standard, we also recommend that the opening legislation give the Secretary authority to require no unnecessary duplication of facilities in the Coastal Plain and authority to subject requests for rights-of-way to the same environmental standard without regard to the access provisions of title XI of the Alaska National Interest Lands Conservation Act. This will assure that the development scenario designed for ANWR is the most coordinated and efficient possible consistent with environmental protection. It will also assure that the "footprint" on the tundra from these activities is minimized.

We also believe that this new authority must contain certain unique provisions relating to the mechanics of an ANWR leasing program. First, we would expect to conduct lease sales on a sealed cash bonus bid, fixed royalty, basis. This has been shown over years of experience to provide a fair return to the Federal taxpayer as well as efficient exploration, development and production. We note that S. 1217 gives the Secretary the authority to use any of the bidding systems listed on the OCSLA. We have no objection to this discretionary authority.

We also believe that we need authority to lease tracts larger than the 640-acre limitation on competitive leases that we have in the lower 48. We agree with the provision in S. 1217 that sets this size at 2,560 acres but would like additional authority to exceed that size up to a total of 3,840 acres in order to accommodate odd shaped tracts along boundaries.

Careful attention must be paid to how the rights of the Federal Government are protected vis-a-vis the rights of the lessees of the KIC/ASRC lands. This legislation would serve as opening legislation for those native-owned lands as well and as such must address issues of cooperation and environmental coordination that will arise when development begins on those lands.

Also, the development and marketing of oil and gas at ANWR is dependent upon the development of a transportation system and infrastructure which, except for the Trans-Alaska Pipeline, does not yet exist. Therefore, given the uncertainties of the Arctic environment, any leasing authority should contain provisions permitting the Secretary to suspend the term of a producible lease in general, and particularly pending construction of the necessary means for transporting the oil to market.

In addition, the bill adopts the Final LEIS accompanying the Secretary's report as the necessary NEPA compliance for the development and conduct of lease sales, and requires such a sale to take place within 12 months of enactment. In contrast, while we believe that the Final LEIS should be adopted as the programmatic Environmental Impact Statement for the leasing program, we propose to comply with NEPA for each subsequent step of the process -- leasing, exploration, and production.

Such NEPA compliance will require approximately 18 to 24 months of work after passage of authorizing legislation before the initial lease sale could occur if there are no legal challenges further delaying matters. Accordingly, we

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would not be able to comply with the 12-month deadline contained in the legislation. In order to prevent delays beyond the 18 to 24 months, we recommend that expedited judicial review provisions similar to those included in the Trans-Alaska Pipeline Authorization Act be included.

We read the provisions of section 4 as limiting the applicability of Federal and State environmental laws. The Secretary has consistently stated that all applicable Federal laws should apply to leasing activities on the Coastal Plain. Suspension of State laws would be contrary to the basic approach of this Administration to Federal-State relations. We do not anticipate any problems in working with the State of Alaska, and if serious concerns do arise we believe they could be resolved on a case-by-case basis by working with the Congress and the State government as needed.

Finally, there has been much discussion about how the revenues from ANWR should be distributed. We would like to use this opportunity to make the Committee aware that the Administration believes that, because the resources of ANWR belong to the nation as a whole, all Americans should share equitably in the values yielded from development of those resources. This being the case, the maximum possible amount of money from ANWR should go to the Treasury.

This concludes our comments on S. 1217. Let me assure you that we are available at any time to work with the Committee and its staff on this issue. Jim and I would be pleased to respond to any questions you may have.

ADDITIONAL VIEWS OF SENATORS METZENBAUM AND BRADLEY

The Committee has reported a bill which would allow the phased leasing of the Coastal Plain. It's doubtless that many consider this course of action to represent a prudent and far-sighted strategy. We fundamentally disagree.

There are some places where known natural values—wilderness values—outweigh speculative development values. Development of every possible potential petroleum bearing structure is not always in our nation's best interest. Protection of our parks, refuges, and wilderness regions is also important. When the choice is between speculative energy developments and the protection of a world class natural ecosystem, then we believe prudence and concern for the national interest dictate that we protect such a place. And the Arctic Refuge and its coastal plain is such a place.

The Arctic Refuge is a unique area. As the Interior Department clearly states in its draft report on the region: "The Arctic Refuge is the only conservation system unit that protects, in an undisturbed condition, a complete spectrum of the various ecocystems in North America." Its remote situation and forbidding climate have made it all but inaccessible to human visitors. This is appropriate, as the Arctic Refuge exists foremost for its own inhabitants. This is an area of fantastic ecological importance. What is at stake is far more than the well-publicized Porcupine caribou herd. The coastal plain is also vital to polar bears, grizzly bears, wolverines, and muskoxen, the survivors of the Ice Age. Millions of swans, snow geese, northern pintail and other waterfowl spend their summers on this stretch of the Arctic coast.

The Committee has been told repeatedly that oil development and wildlife can be compatible. The thriving caribou population at Prudhoe is an often-noted example of this compatibility. However, wilderness is a quality that transcends the particular habitat and statistics of any species of flora or fauna. Wilderness is the essence of the Arctic and wilderness is incompatible with oil field development.

Industrialization of the Arctic coastal plain would mean that the United States and the State of Alaska have chosen to exploit its entire 1100-mile coastal line, onshore, and off, for energy exploration and development. Some areas may not yield energy and they will not be so badly damaged, but that is not balanced public policy. That is turning land use and development patterns over to private industry and speculation.

To what end do we pursue this goal of oil development in a now pristine environment? Administration advocates cite the need for development to guarantee our energy security. But real energy security cannot be achieved by promoting "good" U.S. oil and rejecting "bad" foreign oil. Oil markets are worldwide. When we aban-

doned price controls on oil, we pledged this nation to abide by a world market price. Developing the Arctic, with its one-in-five chance of adding another two hundred days of U.S. oil consumption to the reserve base, is neither the only way nor even best way to promote national security.

America's Arctic Refuge is remote. It is unknown to most of us. Yet it is home to thousands of varieties of wildlife, as well as a native American population which depends on this wildlife for its subsistence. This home deserves to be treated with respect and protected.

This Committee cannot guarantee that there will not be a major reduction in wildlife in the area. It cannot guarantee that there will not be toxic spills or surface degradation. But we do know that this wilderness area will no longer be the pristine host to so many species of unique plants and animals.

We cannot support such action. Rather, we would protect this last Arctic wilderness.

HOWARD M. METZENBAUM.
BILL BRADLEY.

ADDITIONAL VIEWS OF SENATOR WEICKER

Almost fifteen years ago, I, and my colleagues in the Senate, were confronted with the question of whether to allow the Trans-Alaskan oil pipeline to be immediately constructed by putting aside challenges that were raised over the environmental impact studies of the proposed pipeline. 1973 was the year of the Arab oil embargo and an agonizing time for us all. My vote was a swing vote to put aside the lengthy delays in constructing the oil pipeline which today provides our nation with over 21 percent of our domestic oil supply.

Today, we are once again faced with a controversial and difficult question of whether Congress should allow oil and gas exploration to occur within the coastal plain of the Arctic National Wildlife Refuge (ANWR). As a Senator with 18 years of service, I have seen foreign policy shaped by our decisions on how we provide for our energy needs. Today, 40 percent of oil consumed in the U.S. is imported. By the 1990's, our dependency on foreign oil will exceed 50 percent and the Persian Gulf will hold over two-thirds of the free world's oil reserves. Gone forever is the luxury to postpone decisions on energy security.

As a Member of the Senate Energy and Natural Resources Committee, I chose, with the majority of my colleagues, to report out legislation authorizing the exploration and potential development of oil and gas within the coastal plain of ANWR. Any activity within ANWR would not occur until after the preparation and submission to Congress of a comprehensive report establishing a national energy policy. Congress will have ample opportunity to oppose any activity in ANWR if it is inconsistent with our future energy policy. Even if exploration proceeds, legislation reported by the Energy Committee would allow exploration and development only if there is "no significant adverse effects on fish and wildlife, their habitat, and the environment."

The energy resources within ANWR do not solve our energy problems. The key to energy security is reducing our consumption of oil. I have long advocated a tax on gas to increase conservation, an increase in automobile fuel efficiency, and greater funding for weatherization and energy conservation programs in public and private buildings. At times, I have been the lone voice in support of these initiatives.

Our country is today risking the lives of U.S. servicemen to protect the shipment of Persian Gulf oil supplies. The choice is simple, we either explore all possibilities, in an environmentally responsible manner, to reduce our dependence upon foreign imported oil or we put our fate into the hands of overseas interests and be willing to suffer the consequences. For me, the choice is clear.

LOWELL P. WEICKER, Jr.

ADDITIONAL VIEWS OF SENATOR EVANS

After many long hearings in the Committee, and a long arduous debate on the question of whether to open the Arctic National Wildlife Refuge to oil and gas leasing and development, the Committee has voted to favorably report to the floor a bill that would open the ANWR to oil and gas leasing. I joined the majority in support of reporting this bill so that the full Senate will have the opportunity to take part in the debate on the energy study amendment that was so narrowly defeated in this Committee.

I believe the Committee has not adequtely addressed what I believe is a fundamental issue in the decision to open ANWR—whether we are going to continue to make energy decisions in a vacuum or whether we are going to make informed decisions as to how best to meet our nation's energy needs. When ANWR comes up for debate before the full Senate, I intend to insure that this issue be fully aired before all of our colleagues. The Committee's bill places the cart before the horse. We cannot make an informed decision about our energy needs until we have adequate information and analysis. On the flip side, if Congress receives information and no decision hinges on that analysis, it will, quite candidly, be shuffled off to the side of a desk, buried in piles of similar studies and reports that arrive each year from federal agencies.

The debate as to whether to open the coastal plain of the Arctic National Wildlife Refuge for oil and gas development is not an easy one. Credible arguments have been made that we need to explore all potential domestic sources of petroleum to provide some security for our nation's future energy needs. None of us want to relive the days of the early 1970's.

However, it was recognized unanimously in the Committee that policy-makers need to do a better job of planning for our country's energy needs. The question is, do we address that task in a meaningful way with the bill reported by the Committee. I believe the Committee's solution will not be a complete answer.

The country simply cannot afford to wait until the next energy crisis to plan for its energy needs. Wise and thoughtful decisions are generally not made in crisis situations. We have only to review our own recent history for proof of this. We have already abandoned many of the energy-saving programs that were hastily enacted during the 1970's. Some of them were poor decisions and should have been abandoned, such as the Synfuels program. Other decisions were good, but have been abandoned without thought or examination. We have fallen behind in the gains we were making to conserve oil and we have a complacent public who thinks this situation will last forever.

Do we need this oil from ANWR? Are there less destructive means to make the same quantity of oil available to meet the nation's oil demands? Which alternatives are the least costly? After

all of the hearings and all of the debate, these questions have been answered at best with pure speculation. They cannot be answered any other way because the information has not been given to Congress. And yet, these elements should be a fundamental part of the debate when we are questioning whether to destroy a spectacular wilderness area, unparalleled in our country.

I joined with Senator Wirth and Senator Bumpers to propose an amendment that would have gone a long way toward providing Congress with the appropriate data and methodology we need to make an informed decision about the future supply and demand for oil of this country. This amendment was narrowly defeated by one vote. That fact alone illustrates the deep concern about the wisdom of the choice the Committee has made. This amendment would have required a comparative analysis of energy supply sources, and a ranking of energy supply alternatives based on cost, damage to the environment, diversifying the nation's energy base, alternative fuels, and increases in efficient use of oil.

For instance, just increasing the fuel efficiency of the U.S. car fleet from an average 13.3 mpg in 1973 to 18.3 mpg in 1986 resulted in saving 3.23 billion barrels of oil every 5 years. That is the equivalent of what the Department of Interior has stated there is a 19 percent chance of recovering in ANWR. Increasing CAFE standards by a modest amount for new cars and trucks alone could save as much oil as ANWR is projected to produce but in far less time. Other measures such as commercial and residential weatherization programs, industrial energy efficiency programs, expanding the use of alternative fuels, and putting more money back into basic R&D for energy technologies could also help meet the nation's projected demand for oil.

The amendment would have directed the National Academy of Sciences, in consultation with the Department of Energy and the Department of the Interior, to complete a least-cost energy analysis for our nation's demand and supply of oil prior to Congress making a determination about authorizing oil and gas development in the coastal plain. Such an analysis would form the framework for the development of a coherent energy policy for our country. The plan would include an analysis of the nation's demand for petroleum products by sector—transportation, industrial, commercial, residential, and utility. It would also include an estimate of alternative sources of equivalent energy in terms of other domestic petroleum resources, alternative fuels, and efficiency measures such as automobile fuel efficiency standards. The analysis would include an estimate of the costs associated with the choice of each alternative.

Furthermore, I have serious reservations about the Committee's action to continue the current outright ban on the exportation of ANS oil transported through the Trans-Alaskan Pipeline (TAPS). The implications of continuing the existing ban on potential oil exports was an issue that was not addressed by the Committee in its hearings and discussion of the bill. Indeed, this issue has important trade policy implications in which the Banking and Finance Committees have a longstanding and legitimate interest.

The Committee considered an amendment that would have broadened the current prohibitions on such oil exports by including all oil produced on the ANWR plain and by making such a ban

permanent. Fortunately, the Committee did not adopt that amendment, and instead, chose to adopt language offered by Senator McCLURE that, in effect, reflects the scope of current law and policy by including under that ban only that oil to be transported via TAPS. Realistically, TAPS is the most likely path of transportation to a port for ANWR oil and the pipeline capacity should be sufficient as production from Prudhoe Bay continues to decline.

While I would not vote for such an export ban, I believe that the McClure amendment is preferable to a broader export ban. Our actions should reflect current policy unless this Committee, and other committees in the Senate, act to modify or change that policy. Finally, one must bear in mind that the Senate will likely consider the implementing legislation for the U.S.-Canada Free Trade Agreement (FTA) at some point during this session of Congress. Annex 902.5 of that agreement provides for the limited export of "Alaskan oil" to Canada, up to 50,000 barrels per day, which will be included in such implementing language. I believe the intention of that exemption is to reference all Alaskan North Slope oil, including potential oil produced from the ANWR plain. The Committee's action to reference the export ban in current law should not be interpreted as prejudicing or affecting the proposed change in policy on Alaskan oil export to be included in the FTA. The Congress will have the opportunity to consider that provision and its policy implications as an important part of the process of considering the implementing language for the FTA.

DANIEL J. EVANS.

MINORITY VIEWS OF SENATORS BUMPERS, WIRTH, AND FOWLER

This legislation authorizes the Secretary of the Interior to offer for lease the entire coastal plain of the Arctic National Wildlife Refuge. We oppose this legislation because, in our view, the decision of whether the coastal plain should be made available for oil and gas exploration and development should be taken only within the framework of a cohesive, progressive national energy policy.

During the Committee's consideration of this matter, we supported an amendment that would have deferred the decision on leasing until the Secretary of the Interior had completed a thorough study of (1) the nation's demand for crude oil, (2) the alternatives for meeting the nation's demand for liquid fuels, including the potential for conservation, increased efficiency, and enhanced oil recovery, and (3) the comparative costs of these and other alternatives for securing the nation's energy future.

We believe that such a study would provide a sound framework and context for making a decision on leasing the coastal plain—a decision that would irrevocably change the character of what is today a uniquely important component of the national wildlife refuge system. Unfortunately, our amendment was defeated by a vote of 10–9.

In its stead, the Committee adopted an amendment that authorizes oil and gas leasing to proceed on the entire coastal plain concurrent with the preparation of an energy study that would achieve some, but by no means all, of the objectives set out by our amendment. At its core, the legislation approved by the Committee clears away all legal obstacles to oil and gas development on the coastal plain. Under the Committee's approach, the Congress would be left only with the option of adopting legislation to bar oil and gas development on the coastal plain if the Congress determines that such action is warranted by the Secretary's study.

In our view, the legislation approved by the Committee places the cart before the horse. We believe that Congress should make a decision on leasing the coastal plain after receiving from the Secretary a report that provides the vital information that is needed to make an informed decision on this very important issue. For that reason, we oppose the legislation approved by the Committee and dissent from the views embodied by the Committee's report.

The Nation's Crude Oil Reserves

Over the past year, the Energy and Natural Resources Committee has held a number of hearings on the state of the nation's energy security. Much of what we heard is cause for concern. There was general agreement that United States production of crude oil has declined since 1985, and that stripper well production

was particularly hard hit by the precipitate decline in crude oil prices that occurred in 1986. There also was general agreement that consumption of crude oil in the United States has increased as prices have fallen. And finally, one of the results of these two diverging trends has been an increase in this country's reliance on imported oil.

However, other elements of the United States's crude oil production outlook have not received as much attention as they should. Most important is the fact that in much of the United States, oil and gas exploration is in a mature stage: the nation has been extensively drilled, and finding and lifting costs are high, especially compared to the costs of exploration and development in the Persian Gulf producing nations. See generally, United States Department of Energy, "Energy Security/A Report to the President of the United States" at 50–53 (March 1987). A report recently prepared by the Congressional Research Service points out that this country's

> oil reserves will decline at a record pace. Our reserves to production ratio of 9/1 is dwarfed by the 50+/1 ratios of the Middle East. Despite favorable prices prior to 1986, we have not shown since 1979 that we can return to the peak of 1971, and the North Slope production which rescued us for awhile is now about to decline.

J. Schanz, Jr., "The Outlook for U.S. Energy Supplies and the Arctic National Wildlife Refuge Decision" at 11–12 (Congressional Research Service) (January 15, 1981). See also Office of Technology Assessment, "U.S. Oil Production/The Effect of Low Oil Prices" at 13–14 (while there is disagreement about whether the major sources of new reserves will be the discovery of large new oilfields or the aggregation of many modest increments of reserves gained by drilling new wells in old fields, improving enhanced oil recovery techniques, and exploring for small fields in familiar producing territories, the recent history of reserves additions supports the latter view).

Other experts in the energy field paint a similar picture for future crude oil production in the United States. For example, the Department of Energy projects that total United States petroleum production may decline from 11.20 million barrels/day in 1985 to approximately 7.68 million barrels/day in the year 2000 (assuming a world oil price of $32.87/barrel in the year 2000). Energy Information Service, "Annual Energy Outlook 1986" at 37 (released for printing Feb. 11, 1987). A range of petroleum production forecasts collected by the American Petroleum Institute painted an even grimmer picture: the forecasts for production in the year 2000 ranged from 3.2 million barrels/day to 6.2 million barrels/day. (It is unclear from the text of the API report whether those estimates included production of natural gas liquids, which were included in the EIA projections). American Petroleum Institute, "Domestic Petroleum Production and National Security" at II–3 (Dec. 30, 1986).

Of course, none of the currently available projections of either United States oil production or oil consumption is ineluctable. There exist a wide range of policy actions that could be taken on either the supply side or the demand side, or both, to enhance the

United States's energy future—although prudence suggests an intensive commitment to reducing demand and developing alternatives to crude oil. But one of our principal objections to the Committee-approved legislation is that it makes a major, irrevocable commitment to expanding supply from a region of very high economic and environmental costs without examining the potential costs and advantages of alternatives to this course of action.

The energy study that we supported as a predicate to a leasing decision would not have to be started from scratch. Much already is known about alternatives. However. no one has yet comprehensively studied the relative costs and advantages of these alternatives compared to the costs of exploring for new reserves in environmentally sensitive regions such as the north slope of the Arctic.

For example, we know that enhanced oil recovery and increased efficiency in a broad array of energy sectors could make very important contributions to the nation's energy security. But instead of taking a comprehensive look at those alternatives, the Committee-approved legislation proposes only to authorize leasing in one of the nation's most spectacular national wildlife refuges. We do not believe that leasing the coastal plain should be the first resort—or that it should be made without a clear road map for enhancing the nation's energy security.

Moreover, we believe it is important to remember that oil exploration on the coastal plain may not be successful. Throughout the debate, many advocates of leasing emphasized that the Department of the Interior's mean estimate of the conditional economically recoverable reserves in the coastal plain is 3.2 billion barrels. However, it is equally important to note that conditional economically recoverable oil estimates do not account for the risk that no comercial-size deposits will be found in the area. As the Office of Technology Assessment explained,

> [r]isked mean economically recoverable oil and gas estimates factor in the possibility that no economically recoverable resources exist in the 1002 area. This reduces the conditional estimates of recoverable oil in proportion to the risk that no commercially recoverable oil exists in the area. In the case of ANWR, 3.2 billion barrels of economically recoverable oil is reduced by 80 per cent (the probability that no commercial discoveries of oil will occur in the 1002 area) *to determine the risked mean estimate of about 640 million barrels of oil.*—Office of Technology Assessment, "U.S. Oil Production/The Effect of Low Oil Prices" at 84 (September 1987) (emphasis added).

What Might a Study of Alternatives Tell Us

When the Organizations of Petroleum Exporting Countries instituted an embargo on exports to the United States in 1974, the new car fleet in this country was getting an average of 12.9 miles/gallon. In response to the embargo, Congress passed the Energy Policy and Conservation Act, which mandated a progressive increase in the average fuel economy of new car fleets. By 1985, new cars were required to achieve an average of 27.5 miles/gallon—a

dramatic improvement over the 1974 average performance, but by no means the technological limit in fuel performance.

In 1985, the import fleet was meeting an average of 30.8 miles/gallon, well above the minimum of 27.5 miles/gallon. And in October 1985, the Administration rolled the standard back to 26 miles/gallon over the strenuous objections of the Chrysler Corporation, whch had invested heavily in meeting the Corporate Average Fuel Economy Standards (CAFE).

Even at an average of 27.5 miles/gallon, the CAFE standards have been an extraordinary success. If the car fleet, which currently averages approximately 18 miles/gallon, is entirely replaced by cars that meet an average of 27.5/gallon, the United States will be saving 900 million barrels of oil every year.

Nevertheless, there is considerable room for improvement. And the transportation sector's near-total reliance of oil makes a compelling case for dramatic improvements in fuel efficiency, since this part of the economy likely would suffer first and traumatically during any future interruption in energy supplies. For example, in 1985, a year that is roughly representative of the mid-1980s, the transportation sector used nearly 65 per cent of all of the oil used in the United States. That was equivalent to thirty times that year's imports from Persian Gulf producing countries, and was equivalent to 7.6 times the United States' total net petroleum imports from all exporting countries.

Conversely, if we were to require that new cars and light trucks sold after 1993 meet an average of 30 miles per gallon, this country could save 11.4 billion barrels of oil by the year 2030 (the estimated end of production from the coastal plain if 3.2 billion barrels of recoverable reserves were discovered there). If we were to raise the standard to 40 miles/gallon—a standard that is certainly achievable—we would save 30.5 billion barrels of oil by the year 2030: ten times the mean conditionally recoverage resources estimate for the coastal plain.

Without question, there are very substantial opportunities in the transportation sector for reducing oil consumption, and the quantities of oil that could be saved dwarf the amount of oil that may be found in the coastal plain. Figure 1 graphically demonstrates that a tougher CAFE standard would make a far greater contribution to the nation's energy security than would even a discovery of 3.2 billion barrels of recoverable reserves in the coastal plain. Nevertheless, in a speech delivered on January 27, 1988, Secretary of Transportation James Burnley called for the total repeal of automobile efficiency standards, rather than a new commitment to efficiency improvements in the transportation sector. And the Department of Energy has concluded that the CAFE standards have "outlived their usefulness." United States Department of Energy, "Energy Security/A Report to the President of the United States" at 108 (March 1987).

Enhanced oil recovery (EOR) is another policy option that offers great promise but which has not received adequate research funding within the Department of Energy's budget over the past several years. The Department of Energy itself has concluded that EOR "is one of the least-cost and most timely options for slowing or reversing the decline in domestic reserves and production." United States

Department of Energy, "Federal Enhanced Oil Recovery Research: Increased Understanding of the 300-Billion-Barrel U.S. Residual Oil Resource and the Technologies to Produce It" at 1 (Oct. 1985).

This report pointed out that the National Petroleum Council has estimated "14.5 to 34 billion barrels of residual oil to be producible through processes that can be specified today." Id. at 12. And "'[a]dvanced' technology production levels may peak at between 2.1 million barrels per day (at $30 per barrel) in 2008 to 2.8 million barrels per day (at $50 per barrel) in 2003." EOR clearly offers great promise for maintaining United States oil production as we make the inevitable transition to other liquid fuels.

The energy study that our amendment would have mandated would have given the Congress, the oil industry, and the American public a much clearer picture of how EOR, stronger CAFE standards, and other measures compare to the total social costs of exploring and developing the coastal plain. Again, we believe strongly that the Congress should have such information before making an irrevocable decision on industrial development in that sensitive and enormously valuable unit of the wildlife refuge system.

Finally, we feel compelled to point out that alternative energy sources should be an integral part of this nation's energy policy for the future, but that the current Administration consistently has sought to reduce the federal commitment to research and development of alternative energy sources. For example, for fiscal year 1989 the Administration is recommending a 17 percent reduction in funding for solar and renewable energy research and development—a funding level that would represent an 80 percent reduction in federal funding since fiscal year 1982. Similarly, the Administration has proposed a nearly 50 per cent reduction in funding for fossil fuel energy research and development in fiscal year 1989. And again this year, the Administration has recommended dramatic cuts in funding for energy conservation research and development: the total program would be reduced in fiscal year 1989 by nearly 45 percent, a funding level that represents a 70 percent reduction in federal support since fiscal year 1981. In fact, as Figrure 2 illustrates, virtually every federal program of support for energy research and development has been significantly cut since fiscal year 1981.

We have serious doubts about the wisdom of committing the United States to oil exploration and development in a region of the country where exploration and development costs will be very high, when the Administration appears to be committed to reducing or eliminating federal support for alternative fuels. Our doubts are only intensified when we consider that the federal investment in renewable energy systems appears to be far less costly than development of fragile Arctic ecosystems:

> The energy production, through 1994, from renewable energy systems coming on line in the 1975–1984 period is estimated to be 4.2 billion BOE [barrels of oil equivalent] (displacement of conventional energy requirement). This data implies [sic] a federal investment equivalent of approximately $1.43 per renewable energy BOE.—United States Department of Energy (Office of Renewable

Energy), "Renewable Energy Profile 1975–1984" at 9 (Feb. 1985).

A Different Approach—and a Better One

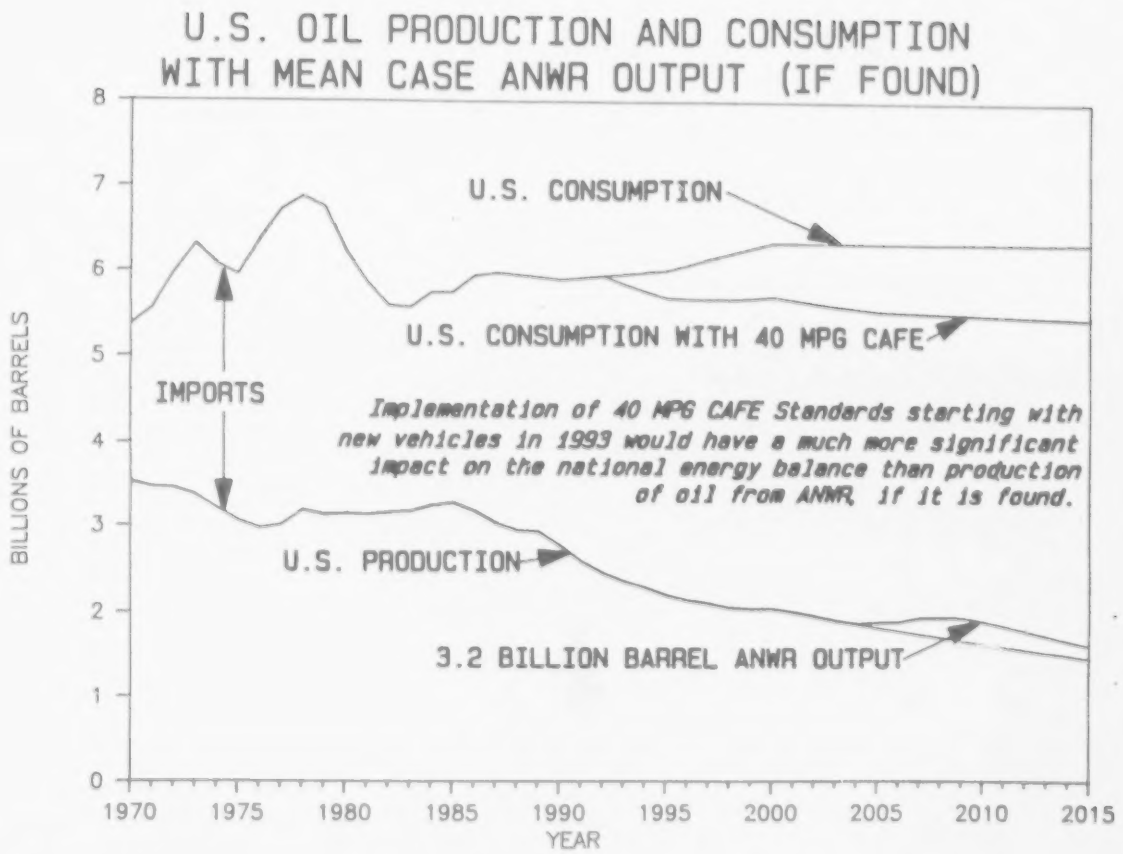
We believe that this recitation of facts paints a compelling picture. The fundamental premise of the amendment that we supported is that the Department of the Interior has not provided the Congress with the information that we need to make a reasoned decision on whether the coastal plain should be leased. We believe that such a decision appropriately should be made within the framework of a national energy report that explains not only what our nation's future demand for crude oil will be, but which also examines the full range of alternatives for meeting that demand.

We must emphasize that the amendment that we supported in the Committee did not close the coastal plain to development. It would give Congress the opportunity to make a careful decision based on all of the facts. It would also very likely provide the impetus for enactment of a wide array of measures—ranging from a renewed commitment to automobile fuel efficiency, to a national commitment to enhanced oil recovery, and to a rededication to energy alternatives including methanol, natural gas, ethanol, and other sources—that make eminent sense in pursuing the goal of energy security to which all of us subscribe.

The Committee's approach of leasing the coastal plain, in isolation from other components of what we think should be included in a rational energy policy, does not make sense to us. That is why we opposed it during the committee's deliberations. And that is why we will oppose it on the floor of the Senate.

Dale Bumpers.
Timothy E. Wirth.
Wyche Fowler, Jr.

Figure 1.


U.S. OIL PRODUCTION AND CONSUMPTION
WITH MEAN CASE ANWR OUTPUT (IF FOUND)
BILLIONS OF BARRELS
YEAR
U.S. CONSUMPTION
U.S. CONSUMPTION WITH 40 MPG CAFE
IMPORTS
U.S. PRODUCTION
3.2 BILLION BARREL ANWR OUTPUT
Implementation of 40 MPG CAFE Standards starting with new vehicles in 1993 would have a much more significant impact on the national energy balance than production of oil from ANWR, if it is found.
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1
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1970
1975
1980
1985
1990
1995
2000
2005
2010
2015

Figure 2.

ALTERNATIVE ENERGY SOURCES

(Dollars in Thousands)

Alternative Energy Source	FY 1981	FY 1982	FY 1983	FY 1984	FY 1985	FY 1986	FY 1987
Conservation R&D	$ 292,456	$ 151,930	$134,689	$150,125	$175,536	$ 173,505	$160,447
Multi-State Distribution:							
Warner Amendment	—	—	200,000	—	—	—	—
Exxon Agreement	—	—	—	—	—	2,098,000	—
Others (Stripper Well Settlement, etc.)						853,500	
Direct Appropriations	402,258	234,240	383,690	280,166	283,400	262,962	213,900
Clean Coal	—	—	—	—	—	98,176	147,261
Coal R&D	729,713	501,964	234,500	239,249	250,679	246,015	203,217
Gas R&D	31,013	11,712	13,680	15,400	10,142	8,503	8,009
Oil R&D	57,791	39,360	23,750	30,200	31,694	29,113	25,963
Solar and Renewable	822,943	400,928	304,055	255,799	240,091	198,969	171,194
Nuclear:							
Research and Development	1,005,740	1,033,330	721,782	632,999	412,612	352,050	277,158
Space and Defense						20,215	47,580
Magnetic Fusion	394,117	451,231	458,379	468,412	429,563	361,490	341,392
Total	$3,735,031	$2,824,695	$2,474,495	$2,072,350	$1,833,707	$4,702,098	$1,595,721

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

MIGRATORY BIRD CONSERVATION ACT

[Section 2, 45 Stat. 1222, as amended]

* * * * * * *

SEC. 2. *(a)* That a commission to be known as the Migratory Bird Conservation Commission, consisting of the Secretary of the Interior, as chairman, the Secretary of Transportation, the Secretary of Agriculture and two Members of the Senate, to be selected by the President of the Senate, and two Members of the House of Representatives to be selected by the Speaker, is hereby created and authorized to consider and pass upon any area of land, water, or land and water that may be recommended by the Secretary of the Interior for purchase or rental under this act, and to fix the price or prices at which such area may be purchased or rented; and no purchase or rental shall be made of any such area until it has been duly approved for purchase or rental by said commission. Any Member of the House of Representatives who is a member of the commission, if reelected to the succeeding Congress, may serve on the commission notwithstanding the expiration of a Congress. Any vacancy on the commission shall be filled in the same manner as the original appointment. The ranking officer of the branch or department of a State to which is committed the administration of its game laws, or his authorized representative, and in a State having no such branch or department, the governor thereof, or his authorized representative, shall be a member ex officio of said commission for the purpose of considering and voting on all questions relating to the acquisition, under this act, of areas in his State. For purposes of this act, the purchase or rental of any area of land, water, or land and water includes the purchase or rental of any interest in any such area of land, water, or land and water.

(b) The commission is also authorized to utilize all or a portion of those funds credited to the migratory bird conservation fund from revenues and receipts generated from oil and gas leasing and related activities on the Arctic National Wildlife Refuge to consider and approve any acquisition recommendation made by the Secretary of the Interior which is pursuant to and in support of any provision of the North American Waterfowl Plan with Canada, signed by the Secretary in May of 1986, or any subsequent amendments thereto,

and which provide for appropriate public access and use and the preservation and conservation of such waterfowl habitat in perpetuity.

* * * * * * *

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

[Subsection 1302(h) (94 Stat. 2474)]

* * * * * * *

(h)*(1)* Notwithstanding any other provision of law, in acquiring lands for the purposes of this Act, the Secretary is authorized to exchange lands (including lands within conservation system units and within the National Forest System) or interests therein (including Native selection rights) with the corporations organized by the Native Groups, Village Corporations, Regional Corporations, and the Urban Corporations, and other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any Federal agency. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

(2) Nothing in this Act or any other provision of law shall be construed as authorizing the Secretary to convey, by exchange or otherwise, lands or interest in lands within the Coastal Plain of the Arctic National Wildlife Refuge (other than land validly selected prior to July 28, 1987), without prior approval by Act of Congress.

* * * * * * *

MINERAL LEASING ACT

[Subsection 28(u) 41 Stat. 449, as amended]

* * * * * * *

(u)*(1)* Any domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to this section, except such crude oil which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1969 (Act of December 30, 1969; 83 Stat. 841) and, in addition, before any crude oil subject to this section may be exported under the limitations and licensing requirements and penalty and enforcement provisions of the Export Administration Act of 1969 the President must make and publish an express finding that such exports will not diminish the total quantity or quality of petroleum available to the United States, and are in the national interest and are in accord with the provisions of the Export Administration Act of 1969: *Provided,* That the President shall submit reports to the Congress con-

taining findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within this time period passes a [concurrent resolution] *joint resolution* of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to the aforementioned Presidential findings shall cease.

(2) The provisions of paragraph (1) shall apply to any domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to the Arctic Coastal Plain Competitive Oil and Gas Leasing Act.

* * * * * * *

APPENDIX

United States Department of the Interior

OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

M-36957
CLC.SO.0001

NOV - 4 1987

Memorandum

To: Secretary

From: Solicitor

Subject: Division of Receipts from Oil and Gas Development from the Arctic National Wildlife Refuge

You have asked whether the Alaska Statehood Act (ASA), Pub. L. 85-508, 72 Stat. 339 (1958), in any way limits Congress' ability to enact a revenue distribution scheme for oil and gas revenues from new leases in federal wildlife refuges that is different from the revenue distribution scheme set out in the Mineral Leasing Act of 1920 (MLA), 30 U.S.C. § 181. Your question refers specifically to the Arctic National Wildlife Refuge (ANWR). The MLA formula provides for the distribution to Alaska (the State) of 90 percent of revenues received by the United States from oil and gas leasing on public lands within the State. For the reasons discussed below, we conclude that the ASA in no way restricts Congress to the distribution scheme set out in the MLA when it enacts legislation to provide for distribution of revenues from new mineral leases in federal wildlife refuges.

BACKGROUND

At issue is the authority of Congress to determine the distribution of revenues from oil and gas leases on public lands in Alaska, and, specifically, from lands that are part of the National Wildlife Refuge System. At present, a distinction is made between revenues from acquired lands and those from reserved public domain refuge lands. Federal oil and gas revenues from acquired lands within refuges are distributed according to a schedule set out in the Wildlife Refuge Revenue Sharing Act (WRRSA)[1/] which allots 25 percent to the county in which the refuge is located and 75 percent to the Migratory Bird Conservation Fund, while federal revenues from reserved public domain lands within refuges are distributed in accordance with the Mineral Leasing Act,[2/] which allots 50 percent to the states,

1/ Section 401, 16 U.S.C. § 715s(c); Watt v. Alaska, 451 U.S. 259 (1981).

2/ Section 35, as amended, 30 U.S.C. § 191.

except Alaska, in which the refuge is located, 40 percent to the Reclamation Fund, and 10 percent to miscellaneous receipts in the U.S. Treasury. Alaska receives 90 percent of MLA lease revenues derived from within the State. The remaining 10 percent goes to miscellaneous receipts in the U.S. Treasury. As the refuge currently at issue, ANWR, is on reserved public domain land, we will focus on the provisions of the Mineral Leasing Act in analyzing the issue presented to us.

The distribution system set out in the Mineral Leasing Act was extended to Alaska in section 28(b) of the Alaska Statehood Act, as follows:

> (b) Section 35 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas and sodium on the public domain", approved February 25, 1920, as amended (30 U.S.C. 191), is hereby amended by inserting immediately before the colon preceding the first proviso thereof the following: ", and of those from Alaska 52 1/2 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof".

After amendment, section 35 of the Mineral Leasing Act read as follows:

> All money received from sales, bonuses, royalties, and rentals of public lands under the provisions of sections 181-184, 185-188, 189-192, 193, 194, 201, 202-209, 211-214, 223, 224-226, 226d-229a, 241, 251, and 261-263 of this title shall be paid into the Treasury of the United States; 37 1/2 per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after December 31 and June 30 of each year to the State within the boundaries of which the leased lands or deposits are or were located; said moneys to be used by such State or subdivisions thereof for the construction and maintenance of public roads or for the support of public schools or other public educational institutions, as the legislature of the State may direct; and, excepting those from Alaska, 52 1/2 per centum thereof shall be paid into, reserved and appropriated, as part of the reclamation fund created by sections 372, 373, 381, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491, and 498 of Title 43, and of those from Alaska 52 1/2 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof: Provided, That all moneys which may accrue to the United States under the provisions of sections 181-184, 185-188, 189-192, 193, 194, 201, 202-209, 211-214, 223, 224-226, 226d-229a, 241, 251, and 261-263 of this title from lands within the naval petroleum reserves shall be deposited

> in the Treasury as "miscellaneous receipts", as provided by section 524 of Title 34. All moneys received under the provisions of sections 181-184, 185-188, 189-192, 193, 194, 201, 202-209, 211-214, 223, 224-226, 226d-229a, 241, 251, and 261-263 of this title not otherwise disposed of by this section shall be credited to miscellaneous receipts. (Feb. 25, 1920, ch. 85, § 35, 41 Stat. 450; May 27, 1947, ch. 83, 61 Stat. 119; Aug. 3, 1950, ch. 527, 64 Stat. 402; July 10, 1957, Pub. L. 85-88, § 2, 71 Stat. 282; July 7, 1958, Pub. L. 85-508, §§ 6(k), 28(b), 72 Stat. 343, 351.)[3] (Emphasis added).

The United States Senate is presently considering a bill, S. 735, that would change the distribution system as applied to revenues derived from oil and gas leasing within units of the National Wildlife Refuge System. Specifically, the bill provides that 50 percent of such revenues would go to the state, 25 percent to the Land and Water Conservation Fund and 25 percent to the federal government. If the bill passes, it will apply to all leases in any wildlife refuge issued after enactment, but it is expected that the refuge most immediately affected will be ANWR.

In recent testimony on S. 735 before the Senate Energy and Natural Resources Subcommittee on Public Lands, National Parks and Forests, and in documents submitted to us in connection with our consideration of this issue, representatives of the State of Alaska have argued that Congress cannot legally enact a revenue distribution formula that provides Alaska less than 90 percent of mineral leasing revenues from the leasing of public lands in Alaska without the consent of the State.[4]

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[3] The net effect of the amendment was to accord Alaska both the 37 1/2 percent share enjoyed by all other states and the 52 1/2 percent that would otherwise have gone to the Reclamation Fund, for a total of 90 percent. A succession of subsequent amendments to section 35, most recently in section 104(a) of the Federal Oil and Gas Royalty Management Act, 30 U.S.C. § 1701, has changed these figures to 50 percent for states and 40 percent for the Reclamation Fund in states other than Alaska, and 90 percent for Alaska, to be distributed on a monthly basis.

[4] Alaska also raises a number of political and policy issues arising from the historic relationship between the federal government and the states and, specifically, between the federal government and the new state of Alaska. We do not purport to address those political and policy issues in this memorandum.

ANALYSIS

The enactment of legislation establishing a distribution formula for federal revenues obtained from the leasing of federally owned minerals falls within the power of Congress enumerated in the Property Clause of the Constitution:

> The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States. . . .

U.S. Constitution, art. IV, § 3, cl. 2.

The Mineral Leasing Act of 1920 is an example of the use of this power. Once having enacted such a system of mineral leasing, Congress has the authority under the Property Clause to change the distribution schedule set up with regard to the revenues resulting from those leases. As indicated in United States v. Locke, 471 U.S. 84, 104 (1985), "[t]he United States, as owner of the underlying fee title to the public domain, maintains broad powers over the terms and conditions upon which the public lands can be used, leased, and acquired." In the Locke case, the Supreme Court was called upon to determine the constitutionality of a legislative provision that subjected holders of unpatented mining claims to forfeiture of those claims if they failed to comply with the annual filing requirements of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1701. In holding the regulation to be constitutional, the Supreme Court indicated that "[c]laimants thus must take their mineral interests with the knowledge that the Government retains substantial regulatory power over those interests." [The Court compared this holding to Energy Resources Group, Inc. v. Kansas Power and Light Co., 459 U.S. 400 (1983), dealing with the impairment of contractual relations.] Id. at 105.5/

5/ The people of Alaska implicitly acknowledged the powers reserved to Congress under the Property Clause when they agreed in the Alaska State Constitution that:

> The State of Alaska and its people forever disclaim all right and title in or to any property belonging to the United States or subject to its disposition, and not granted or confirmed to the State or its political subdivisions, by or under the act admitting Alaska to the Union. The State and its people further disclaim all right or title in or to any property, including fishing rights, the right or title to which may be held by or for any Indian, Eskimo, or Aleut, or community thereof, as that right or title is defined in the act of admission. The State and its people agree that, unless

(footnote continued)

Against this background, Alaska must sustain a heavy burden to show that Congress lacks the authority under the Property Clause to change the distribution system for federal revenues derived from oil and gas leases on federal lands, including wildlife refuges.

Alaska's primary[6/] argument against Congress' power to enact a

(footnote continued from previous page)
otherwise provided by Congress, the property, as described in this section, shall remain subject to the absolute disposition of the United States. They further agree that no taxes will be imposed upon any such property, until otherwise provided by the Congress. This tax exemption shall not apply to property held by individuals in fee without restrictions on alienation.

Alaska Constitution, art. 12, § 12.

6/ Alaska also argues that a change in the distribution, such as that proposed in S. 735, would result in the State being treated differently than other states. Specifically, Alaska argues that it is the only state that has a refuge producing oil and gas revenues on reserved lands and, therefore, is the only state that will be impacted by a provision changing the distribution formula for reserved wildlife refuges. Although this appears to be primarily a policy issue, Alaska does suggest that the equal footing doctrine may be implicated by such unequal treatment. However, after reviewing this matter, we do not believe that it raises substantial legal questions. Factually, the proposed law would apply to all new leases on all wildlife refuges. As a factual matter, it is not clear that it would have an unequal impact in the long run. As a legal matter, even if there were an unequal impact, this impact would not constitute a violation of the equal footing doctrine. In Nevada v. U.S., 512 F. Supp. 166 (D. Nev. 1981), a case in which the State of Nevada challenged a moratorium on the disposal of public lands under the equal footing doctrine, the court accurately summarized this doctrine as follows:

> Federal regulation which is otherwise valid is not a violation of the "equal footing" doctrine merely because its impact may differ between various states because of geographic or economic reasons. Island Airlines, Inc. v. CAB, 363 F. 2d 120 (9th Cir. 1966). The doctrine applies only to political rights and sovereignty; it does not cover economic matters, for there never has been equality among the states in that sense. U.S.
> (footnote continued)

distribution formula for receipts from the lease of refuge minerals that is different from the formula set out in the MLA is that the MLA distribution scheme was incorporated into and made a part of the compact of statehood. According to that argument, the MLA was so incorporated by virtue of the inclusion in the Alaska Statehood Act of a section amending the MLA to apply it to Alaska. The State argues that Congress made the distribution formula part of the compact as a vehicle for granting Alaska a permanent property interest in mineral revenues from public lands.7/ According to this argument, as a grant made to the State in the compact of statehood, the property interest may not be changed. Thus the State argues that the distribution system comes within the narrow confines of Beecher v. Wetherby, 95 U.S. (5 Otto) 517 (1877), a case holding that a grant made in a statehood act is an "unalterable condition of the admission [of the State into the Union], binding upon the United States."

We do not dispute that a grant made in a statehood act may be unalterable. However, we believe that in this instance, Alaska paints too broadly the compact of statehood. Rather than being a grant incorporated into that compact, the distribution system

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v. Texas, 339 U.S. 707 (1950). Said case points out that, when they entered the Union, some states contained large tracts of land belonging to the federal government, whereas others had none. 'The requirement of equal footing was designed not to wipe out these diversities but to create parity as respects political standing and sovereignty.' Id., at 716. Accordingly, Congress may cede property to one state without a corresponding cession to all states.... The equal footing doctrine does not affect Congress' power to dispose of federal property....

7/ In documents submitted to us, the State cites several instances in the legislative history of the ASA in which Members of Congress expressed an intent to provide Alaska with sufficient revenues to function as a state, and several other instances in which congressmen or reports cited the 90/10 distribution system. However, these expressions of intent do not answer the question of whether the 90/10 distribution was to be a permanent grant of a property interest and whether, by setting out such a formula in 1958, Congress sought to terminate its Property Clause powers with regard to federal mineral revenues from federal lands forever. Our analysis of the statutes and judicial precedent compel a negative answer to both questions that is not changed by the citation suggesting a general intention to provide the new state with revenue.

applied to Alaska in section 28(b) is nothing more than an exercise of Congress' powers under the Property Clause to dispose of and make needful rules for the public's property.

Judicial precedent instructs that not every provision in a statehood act is an irrevocable grant to the state. Thus, we must look carefully at the provisions of the ASA to ascertain what must be included within the terms of its statehood compact with the United States. The Supreme Court has had occasion to consider the different kinds of authority Congress may exercise in passing a statehood act and what provisions of a statehood act may properly be considered part of the compact entered into at statehood. In Coyle v. Oklahoma, 221 U.S. 559 (1911), the Court held that certain conditions contained in Oklahoma's statehood act were not part of the compact of statehood. The Supreme Court pointed out that in admitting a new state into the Union, Congress may simultaneously exercise other of its powers, such as the power to regulate commerce or the power "to make all needful rules and regulations respecting the territory or other property of the United States" (citing Pollard's Lessee v. Hagan, 3 How. 212 (1845)). The Supreme Court concluded that provisions contained in a statehood act that are enacted under one of these other powers, "cannot operate as a contract between the parties, but are binding as law." Coyle, at 571. The Court then went on to say:

> It may well happen that Congress should embrace in an enactment introducing a new state into the Union legislation intended as a regulation of commerce among the states, or with Indian tribes situated within the limits of such new state, or regulations touching the sole care and disposition of the public lands or reservations therein, which might be upheld as legislation within the sphere of the plain power of Congress. But in every such case such legislation would derive its force not from any agreement or compact with the proposed new state, nor by reason of its acceptance of such enactment as a term of admission, but solely because the power of Congress extended to the subject. . . .

Id. at 574.[8/]

Section 28 of the ASA is just such an enactment. It is based on Congress' power under the Property Clause to administer federal property interests. The MLA itself was similarly based, and the

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8/ See also, Nevada v. U.S., 512 F. Supp. at 171-172: "Regulations dealing with the care and disposition of public lands within the boundaries of a new state may properly be embraced in its act of admission, as within the sphere of the plain power of Congress." (Citing, U.S. v. Sandoval, 231 U.S. 28 (1913).

amendment to it contained in the ASA cannot be used to alter its origins or elevate it to compact status so that it cannot be amended.

Section 28 of the ASA, on its face, does not purport to be either a part of the compact between the United States and the State of Alaska or a permanent grant of mineral revenues to the State. In fact, section 28 did nothing more than amend a statute that had already been in existence for over 30 years before the ASA was enacted and had long been applied to federal lands in all other states.[9] Further, section 28 is but one of several sections added at the end of the ASA to amend existing law to apply it specifically to Alaska. Section 28(b) in particular was a necessary and timely expedient because Congress wanted to extend to and adapt for Alaska the revenue distribution system already in place in other states.

Further, section 28(b) is very limited in that it is applicable only to lands leased under the MLA, not to other federally owned lands leased under other authority. For example, section 35 of the MLA gave Alaska no share of receipts from the naval petroleum reserves, and Naval Petroleum Reserve No. 4 (now NPR-A), constituting roughly 23 million acres in Alaska, was separately addressed in Section 11 of the ASA. This separate treatment indicates that Congress did not intend, as argued by the State, that the MLA be a vehicle for an irrevocable 90 percent interest in revenues from all federal mineral lands.[10] This point is

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[9] All of the contiguous lower 48 states had already been admitted to the Union when the MLA was passed in 1920. The MLA was not "incorporated" into the statehood act of any other state.

[10] The State's argument implies that 90 percent of MLA revenues goes to all states, not just Alaska. This argument appears to be based on an interpretation of the MLA whereby the 40 percent of MLA revenues which is earmarked for the Reclamation Fund ultimately is returned to the states in the form of reclamation projects. This argument has several problems. The assertion that the 40 percent of MLA receipts from states other than Alaska is returned to the generating states is illusory. In fact, any such moneys that are returned to the states arrive there only through an express appropriation from Congress after competing with other appropriations proposals, and there is absolutely no guarantee that such moneys as are appropriated will be proportionately returned to the states from which they were generated. The 90 percent provided to Alaska, however, is distributed directly to the State, to be disposed of as the state legislature directs. To the extent Alaska argues that it has been treated the same as other states in receiving the 90 percent share of MLA revenues, it implicitly admits that equal treatment would allow Congress to change the MLA formula for Alaska,

(footnote continued)

further supported by a 1981 Supreme Court decision in which the Court found that a 1964 amendment to the Wildlife Refuge Revenue Sharing Act, which included mineral revenues within its 75/25 distribution schedule, was properly applied to oil and gas leasing revenues from wildlife refuges on acquired federal lands in Alaska. Watt v. Alaska, 451 U.S. 259 (1981).[11/]

Further, section 28 of the ASA did not purport to grant Alaska a 90 percent royalty interest in the minerals themselves. Rather, the section amended an entirely separate statute, the MLA, which itself does not grant the State any interest in minerals, but merely prescribes a formula for the distribution of certain federal oil and gas revenues. We have previously considered the issue of what interest states have in federal oil and gas under the MLA and concluded that they have no economic interest in the oil in place. As stated in Solicitor's Opinion M-36929, 87 I.D. 661, at 664, 665 (1980):

> States have no pecuniary or legal interest in federally owned oil until that oil is leased, extracted and the royalty payments are made to the federal government. In sum, sec. 35 simply

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because Congress clearly has the power to amend the MLA to affect the royalty shares of the other states. New Mexico v. U.S., 11 Cl. Ct. 429 (1986); affirmed, ___ F.2d ___, No. 87-1210 (1987).

11/ The case cited in the text focused on section 401 of the Revenue Sharing Act, 16 U.S.C. § 715s(c), which after the 1964 amendment provided that 25 percent of the receipts, including mineral receipts, generated by a refuge would go to the county in which the refuge was located and 75 percent to the Migratory Bird Conservation Fund. The Kenai Borough (the county in which the Kenai Moose Range is located), and the State of Alaska, each filed suit to challenge the federal interpretation that this formula applied to oil and gas revenues generated from the refuge. The U.S. District Court, District of Alaska, and the Ninth Circuit Court of Appeals each found in favor of the State of Alaska, that is, that section 35 of the MLA and not section 401 of the WRRSA, controlled the distribution of receipts from Kenai Moose Range. The Supreme Court held that the 1964 amendment clearly covered oil and gas receipts, but also found that it had not been the intent of Congress to amend section 35 of the MLA. Therefore, the court ruled that the WRRSA applied to oil and gas receipts from acquired lands in wildlife refuges, but not to reserved public lands in wildlife refuges. Watt v. Alaska, 451 U.S. 259 (1981). Even though the Court distinguished between acquired lands in refuges and public domain, this decision supports the proposition that Congress is not bound by the ASA to give Alaska 90 percent of oil and gas leasing revenues from all federally owned land.

> provides for the disposition of federal royalty revenue; it does not confer on states an economic interest in the oil in place. . . .

Therefore, under the amendment of the MLA contained in the ASA, the State receives only a periodic distribution of 90 percent of the revenues produced each year from the leasing and production of minerals under the MLA. Alaska receives no revenues under the MLA until such revenues are produced, and more importantly, receives its MLA royalty distribution only by virtue of the provisions of the MLA, not by virtue of the ASA.[12/]

Our conclusion must be, then, that Congress was using the amendment to the MLA contained in section 28 not as a vehicle for granting the state a perpetual 90 percent interest in federal minerals in Alaska, but rather as an exercise of its authority under the Property Clause to dispose of and make needful rules for certain federal property, in this case, to set out the distribution scheme applicable to minerals leased under the MLA.

Our view that the MLA was not incorporated into the compact between the State and the federal government and that it does not amount to a permanent grant is supported by examples of cases in which Congress has exercised its Property Clause powers to amend the MLA since Alaska gained statehood to the detriment of Alaska's 90 percent interest in revenues from mineral leases. For example, on December 18, 1971, Congress passed the Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C., § 1601, et seq., amending the royalty distribution ratio of the MLA to reduce the State's share of royalties and pay a portion to Alaska Native corporations. Section 9 of ANCSA, 43 U.S.C. § 1608, provided in part that a royalty of 2 per centum of the gross value of minerals and 2 per centum of all rentals and bonuses would be deducted from the mineral revenues from public lands and paid to the Alaska Native Fund. Prior to ANCSA, the standard royalty on oil and gas leases was 12.5 percent of production. This meant 1.25 percent went to the U.S. Treasury, and 11.25 percent went to the State of Alaska, whereas after ANCSA these percentages were 1.05 and 9.45, respectively.

Similarly, the Crude Oil Windfall Profit Tax of 1980, Pub. L. No. 96-223, 94 Stat. 229 (1980), exacts a tax on MLA revenues prior to the application of the revenue sharing formula. New Mexico v. U.S., 11 Cl. Ct. 429 (1986), affirmed ___ F.2d ___, No. 87-1210 (1987). See also, Solicitor's Opinion M-36929, supra.

These examples clearly demonstrate Congress' continuing authority to change the distribution scheme for mineral revenues from federal lands whenever it perceives a need to do so.

12/ In contrast, for example, the ASA explicitly granted Alaska 103,350,000 acres of land, which vested upon enactment.

CONCLUSION

For the reasons stated, we must conclude that Congress has the authority under the Property Clause of the Constitution to alter the distribution formula set out in the Mineral Leasing Act for oil and gas revenues from the Arctic National Wildlife Refuge. The State of Alaska has not met the heavy burden of persuasion with respect to the argument that those Property Clause powers were terminated by the section in the Statehood Act amending the MLA to include Alaska in the Act's revenue distribution formula. We can find no support in the Alaska Statehood Act for the proposition that the MLA was incorporated into the compact between the federal government and the State. In fact, opposite the proposition, we find other instances in which Congress has amended the MLA in a manner which adversely affected the State's interests.

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